

103D CONGRESS  
1ST SESSION

# S. 575

To amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 11 (legislative day, MARCH 3), 1993

Mr. KENNEDY (for himself and Mr. METZENBAUM) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CON-**  
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Comprehensive Occupational Safety and Health Reform  
7 Act”.

1 (b) REFERENCE.—Except as otherwise specifically  
 2 provided, whenever in this Act an amendment or repeal  
 3 is expressed in terms of an amendment to, or repeal of,  
 4 a section or other provision, the reference shall be consid-  
 5 ered to be made to a section or other provision of the Oc-  
 6 cupational Safety and Health Act of 1970 (29 U.S.C. 651  
 7 et seq.).

8 (c) TABLE OF CONTENTS.—The table of contents is  
 9 as follows:

- Sec. 1. Short title; reference; table of contents.
- Sec. 2. Findings and purposes.

#### TITLE I—SAFETY AND HEALTH PROGRAMS

- Sec. 101. Safety and health programs.

#### TITLE II—SAFETY AND HEALTH COMMITTEES AND EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES

- Sec. 201. Safety and health committees and employee safety and health rep-  
representatives.
- Sec. 202. Employee participation in inspections.

#### TITLE III—COVERAGE

- Sec. 301. Extension of coverage to public employees.
- Sec. 302. Application of Act.
- Sec. 303. Application of OSHA to DOE nuclear facilities.
- Sec. 304. Extension of employer duties to all employees working at a place of  
employment.

#### TITLE IV—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

- Sec. 401. Time frames for setting standards.
- Sec. 402. Basis for standards.
- Sec. 403. Recording of work related adverse medical conditions.
- Sec. 404. Public disclosure of all communications on standards.
- Sec. 405. Revision of permissible exposure limits.
- Sec. 406. Exposure monitoring and health surveillance.
- Sec. 407. Standard on ergonomic hazards.
- Sec. 408. Emergency temporary standards.
- Sec. 409. Air Contaminants.

#### TITLE V—ENFORCEMENT

- Sec. 501. No loss of employee pay for inspections.
- Sec. 502. Time frame for response to complaints.

- Sec. 503. Complaints.
- Sec. 504. Mandatory special emphasis.
- Sec. 505. Investigations of deaths and serious incidents.
- Sec. 506. Abatement of serious hazards during employer contests.
- Sec. 507. Right to contest citations and penalties.
- Sec. 508. Right of employee representatives to participate in other proceedings.
- Sec. 509. Objections to modification of citations.
- Sec. 510. Imminent danger inspections.
- Sec. 511. Citations and penalties for violations of sections 27, 28 and 31.
- Sec. 512. OSHA criminal penalties.
- Sec. 513. Commission member's terms.
- Sec. 514. Inspections.
- Sec. 515. Employee accountability.

#### TITLE VI—PROTECTION OF EMPLOYEES FROM DISCRIMINATION

- Sec. 601. Antidiscrimination provisions.
- Sec. 602. Posting of employee rights.

#### TITLE VII—OSHA TRAINING AND EDUCATION

- Sec. 701. Technical assistance to employers and employees.
- Sec. 702. OSHA assistance fund.

#### TITLE VIII—RECORDKEEPING AND REPORTING

- Sec. 801. Data collected by Secretary.
- Sec. 802. Employee reported illnesses.
- Sec. 803. Employee access.

#### TITLE IX—NIOSH

- Sec. 901. Hazard evaluation reports.
- Sec. 902. Safety research.
- Sec. 903. Contractor rights.
- Sec. 904. National surveillance program.
- Sec. 905. Establishment of NIOSH as a separate agency within Public Health Service.
- Sec. 906. NIOSH training.

#### TITLE X—STATE PLANS

- Sec. 1001. State plan committees and programs.
- Sec. 1002. Access to information; employee rights.
- Sec. 1003. Application of Federal standards.
- Sec. 1004. Complaints against a State plan.
- Sec. 1005. Action against a State plan.
- Sec. 1006. State plan conforming amendments.
- Sec. 1007. Effect on State law.

#### TITLE XI—VICTIMS' RIGHTS

- Sec. 1101. Victims' rights

#### TITLE XII—CONSTRUCTION SAFETY

- Sec. 1201. Short title.
- Sec. 1202. Definitions.

Sec. 1203. Office of Construction Safety, Health, and Education.  
 Sec. 1204. Construction safety and health plans and programs.  
 Sec. 1205. Inspections, investigations, reporting, and recordkeeping.  
 Sec. 1206. Advisory Committee on Construction Safety and Health.  
 Sec. 1207. State construction safety and health plans.  
 Sec. 1208. Construction Safety and Health Academy.  
 Sec. 1209. Enforcement.  
 Sec. 1210. Reports to Congress.  
 Sec. 1211. Federal construction contracts.  
 Sec. 1212. Relationship to existing law and regulations.  
 Sec. 1213. Timetable for regulations.

#### TITLE XIII—ADMINISTRATION

Sec. 1301. Administration.

#### TITLE XIV—EFFECTIVE DATE

Sec. 1401. Effective date.

### 1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) during the past two decades progress has  
 4 been made in reducing workplace deaths, injuries,  
 5 and exposure to toxic substances through efforts of  
 6 Federal agencies, States, employers, employees, and  
 7 employee representatives;

8 (2) despite the progress described in paragraph  
 9 (1), work-related injuries, illnesses, and deaths con-  
 10 tinue to occur at rates that are unacceptable and  
 11 that impose a substantial burden upon employers,  
 12 employees, and the Nation in terms of lost produc-  
 13 tion, wage loss, medical expenses, compensation pay-  
 14 ments, and disability;

15 (3) employers and employees are not suffi-  
 16 ciently involved in joint efforts to identify and cor-  
 17 rect occupational safety and health hazards;

1           (4) employers and employees require better  
2 training to identify safety and health problems;

3           (5) mandatory regulation is necessary to pro-  
4 tect employees from health and safety hazards but  
5 Federal agency standard setting has not kept pace  
6 with knowledge about such hazards;

7           (6) enforcement of occupational safety and  
8 health standards has not been adequate to bring  
9 about timely abatement of hazardous conditions or  
10 to deter violations of occupational health and safety  
11 standards;

12           (7) millions of employees exposed to serious oc-  
13 cupational safety and health hazards are excluded  
14 from full coverage under the Occupational Safety  
15 and Health Act of 1970; and

16           (8) the lack of accurate data and information  
17 on work-related deaths, injuries, and illnesses has  
18 impeded efforts to prevent such deaths, injuries, and  
19 illnesses.

20           (b) PURPOSES.—The purposes of this Act are to—

21           (1) increase the joint participation of employers  
22 and employees in identifying and correcting occupa-  
23 tional safety and health hazards, by requiring the es-  
24 tablishment of employer safety and health programs,

1 joint employer-employee safety and health commit-  
 2 tees, and training and education programs;

3 (2) improve and expedite the setting of occupa-  
 4 tional safety and health standards;

5 (3) strengthen Federal and State agency en-  
 6 forcement of violations of safety and health stand-  
 7 ards;

8 (4) assure that all employees are afforded full  
 9 coverage and protection from safety and health haz-  
 10 ards under the Occupational Safety and Health Act  
 11 of 1970 or other Federal laws; and

12 (5) improve information and data on work re-  
 13 lated injuries, illnesses and fatalities for purposes of  
 14 enhancing occupational safety and health.

## 15 **TITLE I—SAFETY AND HEALTH** 16 **PROGRAMS**

### 17 **SEC. 101. SAFETY AND HEALTH PROGRAMS.**

18 Section 27 (29 U.S.C. 676) is amended to read as  
 19 follows:

#### 20 **“SEC. 27. SAFETY AND HEALTH PROGRAMS.**

21 **“(a) ESTABLISHMENT OF PROGRAM.—**

22 **“(1) IN GENERAL.—**Each employer shall, in ac-  
 23 cordance with this section, establish and carry out a  
 24 safety and health program to reduce or eliminate

1 hazards and to prevent injuries and illnesses to em-  
2 ployees.

3 “(2) MODIFICATIONS TO SAFETY AND HEALTH  
4 PROGRAMS.—The Secretary may by regulations is-  
5 sued under subsection (c)(1) modify the require-  
6 ments of this section with respect to classes of em-  
7 ployers where the Secretary determines that, in light  
8 of the nature of the risks faced by the employers’  
9 employees, such a modification would not reduce the  
10 employees’ safety and health protection.

11 “(3) DEFINITION OF WORKSITE.—As used in  
12 this section and section 28, the term ‘worksite’  
13 means a single physical location where business is  
14 conducted or where operations are performed by em-  
15 ployees of one or more employers.

16 “(b) REQUIREMENTS.—A safety and health program  
17 established and carried out under subsection (a) shall be  
18 a written program that shall include—

19 “(1) methods and procedures for identifying,  
20 evaluating, and documenting safety and health haz-  
21 ards;

22 “(2) methods and procedures for correcting the  
23 safety and health hazards identified under para-  
24 graph (1);

1           “(3) methods and procedures for investigating  
2           and recording work-related deaths, injuries, and ill-  
3           nesses;

4           “(4) methods and procedures for providing oc-  
5           cupational safety and health services, including  
6           emergency response and first aid procedures;

7           “(5) methods and procedures for employee par-  
8           ticipation in the implementation of the employer’s  
9           safety and health program, including (where applica-  
10          ble) participation through a safety and health com-  
11          mittee established under section 28;

12          “(6) methods and procedures for providing a  
13          timely response in writing to the recommendations  
14          of the safety and health committee, where applicable;

15          “(7) methods and procedures for providing  
16          safety and health training and education to employ-  
17          ees and to members of a safety and health commit-  
18          tee established under section 28 (where applicable);

19          “(8) the designation of one or more representa-  
20          tives of the employer who have the qualifications and  
21          responsibility to identify safety and health hazards  
22          and the authority to initiate corrective action where  
23          appropriate;

24          “(9) in the case of a worksite where employees  
25          of two or more employers work, procedures for each



1 employer to protect employees at the worksite from  
2 hazards under the employer's control, including pro-  
3 cedures to provide information on safety and health  
4 hazards to other employers and employees at the  
5 worksite; and

6 “(10) such other provisions as the Secretary re-  
7 quires to effectuate the purposes of this Act.

8 “(c) REGULATIONS ON EMPLOYER SAFETY AND  
9 HEALTH PROGRAMS.—

10 “(1) IN GENERAL.—Within 1 year of the date  
11 of enactment of the Comprehensive Occupational  
12 Safety and Health Reform Act, the Secretary shall  
13 issue final regulations on employer safety and health  
14 programs required by subsection (a), which shall  
15 take effect no later than 18 months after such date  
16 of enactment.

17 “(2) REGULATIONS ON TRAINING AND EDU-  
18 CATION.—The regulations of the Secretary under  
19 paragraph (1) with respect to an employer's safety  
20 and health program shall—

21 “(A)(i) provide for training and education  
22 of employees at the time of employment, in a  
23 manner that is readily understood by such em-  
24 ployees, concerning safety and health hazards,

1 control measures, and the employer's safety and  
2 health program;

3 “(ii) provide for the dissemination of infor-  
4 mation to employees at the time of employment,  
5 in a manner that is readily understood by such  
6 employees, regarding employee rights and appli-  
7 cable laws and regulations; and

8 “(iii) provide for training and education of  
9 employees who are selected to be safety and  
10 health committee members, at the time of their  
11 selection, that is necessary to enable such em-  
12 ployees to carry out the activities of the com-  
13 mittee under section 28; and

14 “(B) require that refresher training and  
15 dissemination of information be provided on at  
16 least an annual basis and that additional train-  
17 ing and dissemination of information be pro-  
18 vided to affected employees and to safety and  
19 health committee members when there are  
20 changes in conditions or operations that may  
21 expose such employees to new or different safe-  
22 ty or health hazards or when there are changes  
23 in safety and health regulations or standards  
24 under this Act that apply to the employer.

1           “(3) COORDINATION OF PROGRAMS.—The regu-  
2           lations of the Secretary under paragraph (1) shall  
3           provide that any specific program or training re-  
4           quirements imposed by regulations under section 6  
5           may be combined or coordinated with an employer’s  
6           safety and health program.

7           “(4) NO LOSS OF PAY.—The time during which  
8           employees are participating in training and edu-  
9           cation provided in accordance with the regulations of  
10          the Secretary shall be considered hours worked for  
11          purposes of wages, benefits, and other terms and  
12          conditions of employment. The training and edu-  
13          cation shall be provided by the employer at no cost  
14          to the employer’s employees.”.

15 **TITLE II—SAFETY AND HEALTH**  
16 **COMMITTEES AND EMPLOYEE**  
17 **SAFETY AND HEALTH REP-**  
18 **RESENTATIVES**

19 **SEC. 201. SAFETY AND HEALTH COMMITTEES AND EM-**  
20 **PLOYEE SAFETY AND HEALTH REPRESENTA-**  
21 **TIVES.**

22          Section 28 is amended to read as follows:

1 **“SEC. 28. SAFETY AND HEALTH COMMITTEES AND EM-**  
2 **PLOYEE SAFETY AND HEALTH REPRESENTA-**  
3 **TIVES.**

4 “(a) PURPOSE.—The purpose of this section is to  
5 bring employees and employers together in a  
6 nonadversarial, cooperative effort to promote safety and  
7 health in each worksite. A safety and health committee  
8 established under subsection (b) is intended to assist the  
9 employer and make recommendations regarding methods  
10 of addressing safety and health hazards.

11 “(b) SAFETY AND HEALTH COMMITTEE ESTABLISH-  
12 MENT.—Each employer who has 11 or more employees for  
13 each working day in each of 20 or more calendar weeks  
14 in the current or preceding calendar year shall establish  
15 a safety and health committee (hereafter in this section  
16 referred to as the ‘safety and health committee’) at each  
17 worksite of the employer, except as provided in subsection  
18 (e)(2).

19 “(c) RIGHTS OF COMMITTEE AND COMMITTEE MEM-  
20 BERS.—

21 “(1) IN GENERAL.—Each safety and health  
22 committee shall have the right, within reasonable  
23 limits and in a reasonable manner, to—

24 “(A) review the employer’s safety and  
25 health program established under sections 27  
26 and 31 (where applicable);

1           “(B) review incidents resulting in work-re-  
2           lated deaths, injuries, and illnesses and com-  
3           plaints regarding safety or health hazards by  
4           employees or safety and health committee mem-  
5           bers;

6           “(C) review, upon a request made to the  
7           employer by any safety and health committee  
8           member, the employer’s work injury and illness  
9           records, other than personally identifiable medi-  
10          cal information, and other reports or documents  
11          relating to occupational safety and health;

12          “(D) conduct inspections of the worksite at  
13          least once every 3 months and in response to  
14          complaints regarding safety or health hazards  
15          by employees or safety and health committee  
16          members;

17          “(E) conduct interviews with employees in  
18          conjunction with inspections of the worksite;

19          “(F) conduct meetings at least once every  
20          3 months and maintain written minutes of such  
21          meetings;

22          “(G) observe the measurement of employee  
23          exposure to toxic materials and harmful phys-  
24          ical agents; and

1           “(H) establish procedures for exercising  
2           the rights of the safety and health committee;  
3           to the employer for improvements in the em-  
4           ployer’s safety and health program and for the  
5           correction of hazards to employee safety or  
6           health.

7           “(2) RECOMMENDATIONS.—Each safety and  
8           health committee and each member of the committee  
9           shall have the right to—

10           “(A) make recommendations to the em-  
11           ployer for improvements in the employer’s safe-  
12           ty and health program and for the correction of  
13           hazards to employee safety or health; and

14           “(B) receive from the employer a timely  
15           written response to any such recommendation.

16           Recommendations under this paragraph shall be ad-  
17           visory only and the employer shall retain full author-  
18           ity to manage the worksite.

19           “(3) TIME FOR COMMITTEE ACTIVITIES.—The  
20           employer shall permit members of the safety and  
21           health committee to take such time from work as is  
22           reasonably necessary to exercise the rights of the  
23           committee, without suffering any loss of wages, ben-  
24           efits, and other terms and conditions of employment  
25           for time spent on duties of the committee.

1 “(d) COMMITTEE MEMBERSHIP.—

2 “(1) MEMBERSHIP.—Each safety and health  
3 committee shall consist of the employee safety and  
4 health representatives selected or appointed under  
5 paragraph (3) and up to an equal number of em-  
6 ployer representatives.

7 “(2) EMPLOYEE SAFETY AND HEALTH REP-  
8 REPRESENTATIVES.—Except as provided in subsection  
9 (e)(2), each safety and health committee shall, at a  
10 minimum, include—

11 “(A) one employee safety and health rep-  
12 resentative at each worksite where the average  
13 number of nonmanagerial employees of the em-  
14 ployer during the year ending January 1 was  
15 more than 10, but less than 51;

16 “(B) two representatives where the number  
17 of such employees was more than 50 but less  
18 than 101; and

19 “(C) an additional employee safety and health  
20 representative for each additional 100 such employ-  
21 ees, up to 6 employee safety and health representa-  
22 tives.

23 “(3) SELECTION.—The employer’s nonman-  
24 agerial employees shall select employee safety and

1 health representatives by and from among them-  
2 selves as follows:

3 “(A) Where none of the employer’s employ-  
4 ees at a worksite are represented by an exclu-  
5 sive bargaining representative, the employees  
6 shall select employee safety and health rep-  
7 resentatives.

8 “(B) Where the employer’s employees are  
9 represented by a single exclusive bargaining  
10 representative, the bargaining representative  
11 shall designate the employee safety and health  
12 representatives.

13 “(C) Where the employer’s employees are  
14 represented by more than one exclusive rep-  
15 resentative or where some but not all of the em-  
16 ployees are represented by an exclusive rep-  
17 resentative, each bargaining unit of represented  
18 employees (and any residual group of unrepre-  
19 sented employees) shall have a proportionate  
20 number of employee safety and health rep-  
21 resentatives based on the number of employees  
22 in each bargaining unit or group, except that  
23 each such unit or group of 11 or more employ-  
24 ees shall have at least one representative. The  
25 selection process shall be conducted in accord-



1           ance with the provisions of subparagraph (A) or  
2           (B) as applicable.

3           “(4) PROTECTION OF EMPLOYEE RIGHT.—An  
4           employee’s right to seek to be an employee safety  
5           and health representative and to otherwise partici-  
6           pate in the selection process without being subject to  
7           penalties, discipline, employer interference, or re-  
8           prisal of any kind shall be protected.

9           “(e) REGULATIONS.—Within 1 year of the date of en-  
10          actment of the Comprehensive Occupational Safety and  
11          Health Reform Act, the Secretary shall issue regulations  
12          on safety and health committees. Such regulations shall  
13          be effective within 18 months of the date of enactment.  
14          Such regulations shall include provisions on—

15               “(1) the functioning of committees, including  
16               selection of employee safety and health representa-  
17               tives, the terms of such representatives, and the  
18               maintenance of records; and

19               “(2) the functioning of committees, including  
20               the number and selection of employee safety and  
21               health representatives—

22                       “(A) where an employer’s employees do not  
23                       primarily report to or work at a fixed location;

1           “(B) with regard to worksites where less  
2           than 11 employees of a covered employer are  
3           employed; and

4           “(C) with regard to worksites where em-  
5           ployees of more than one employer are em-  
6           ployed.

7           “(f) ADDITIONAL RIGHTS.—The rights and remedies  
8           provided to employees and employee safety and health rep-  
9           resentatives by this section are in addition to, and not in  
10          lieu of, any other rights and remedies provided by con-  
11          tract, by other provisions of this Act, or by other applica-  
12          ble law, and are not intended to alter or affect such rights  
13          and remedies.”.

14          “(g) CONSTRUCTION.—A safety and health commit-  
15          tee established under and operating in conformity with  
16          this section shall not constitute a labor organization within  
17          the meaning of section 2(5) of the National Labor Rela-  
18          tions Act or a representative within the meaning of section  
19          1, sixth, of the Railway Labor Act.”.

20       **SEC. 202. EMPLOYEE PARTICIPATION IN INSPECTIONS.**

21          Section 8(e) (29 U.S.C. 657(e)) is amended to read  
22          as follows:

23          “(e) Subject to regulations issued by the Secretary,  
24          a representative of the employer and a designee of the em-  
25          ployee safety and health representatives shall be given an

1 opportunity to accompany the Secretary or the Secretary's  
 2 authorized representative during the physical inspection of  
 3 any workplace under subsection (a) for the purpose of aid-  
 4 ing such inspection. Where no employee safety and health  
 5 representatives have been selected, a representative au-  
 6 thorized by the employer's employees shall be given an op-  
 7 portunity to accompany the Secretary in lieu of the des-  
 8 ignee of the employee safety and health representatives.  
 9 Where there is no authorized employee representative, the  
 10 Secretary or the Secretary's authorized representative  
 11 shall consult with a reasonable number of employees con-  
 12 cerning matters of health and safety in the workplace.".

### 13 **TITLE III—COVERAGE**

#### 14 **SEC. 301. EXTENSION OF COVERAGE TO PUBLIC EMPLOY-** 15 **EES.**

16 (a) DEFINITION OF EMPLOYER.—Section 3(5) (29  
 17 U.S.C. 652(5)) is amended by striking out “but does not  
 18 include” and inserting in lieu thereof “including”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 19 (29 U.S.C. 668) is repealed.

21 (2) Section 410(b) of title 39, United States  
 22 Code, is amended by striking out paragraph (7) and  
 23 inserting in lieu thereof the following new para-  
 24 graph:

1 “(7) the Occupational Safety and Health Act of  
2 1970 (29 U.S.C. 651 et seq.);”.

3 **SEC. 302. APPLICATION OF ACT.**

4 Section 4(b) (29 U.S.C. 653(b)(1)) is amended—

5 (1) by redesignating paragraphs (2), (3), and  
6 (4) as paragraphs (5), (6), and (7), respectively; and

7 (2) by striking out paragraph (1) and inserting  
8 in lieu thereof the following new paragraphs:

9 “(b)(1) Where a Federal agency has promulgated and  
10 is enforcing standards or regulations affecting occupa-  
11 tional safety or health of some or all of the employees  
12 within that agency’s regulatory jurisdiction, and the Sec-  
13 retary determines that such a standard or regulation as  
14 promulgated and the manner in which the standard or  
15 regulation is being enforced provides protection to those  
16 employees that is at least as effective as the protection  
17 provided to those employees by the Secretary’s enforce-  
18 ment of this Act, the Secretary may publish a notice in  
19 the Federal Register setting forth that determination and  
20 the reasons for the determination and certifying that the  
21 Secretary has ceded jurisdiction to that Federal agency  
22 with respect to the specified standards or regulations af-  
23 fecting occupational safety and health. In determining  
24 whether to cede jurisdiction to a Federal agency, the Sec-  
25 retary shall seek to avoid duplication of, and conflicts be-

1 tween, health and safety requirements. Such certification  
2 shall remain in effect unless and until rescinded by the  
3 Secretary.

4 “(2) The Secretary shall, by regulation, establish pro-  
5 cedures by which any person who may be adversely af-  
6 fected by a decision of the Secretary certifying that the  
7 Secretary has ceded jurisdiction to another Federal agency  
8 pursuant to paragraph (1) may petition the Secretary to  
9 rescind a certification under paragraph (1). Upon receipt  
10 of such a petition, the Secretary shall investigate the mat-  
11 ter and shall, within 90 days after receipt of the petition,  
12 publish a decision with respect to the petition in the Fed-  
13 eral Register.

14 “(3) Any person who may be adversely affected by—

15 “(A) a decision of the Secretary certifying that  
16 the Secretary has ceded jurisdiction to another Fed-  
17 eral agency pursuant to paragraph (1); or

18 “(B) a decision of the Secretary denying a peti-  
19 tion to rescind such a certification,

20 may at any time prior to the sixtieth day after such deci-  
21 sion is published in the Federal Register file a petition  
22 challenging such decision with the United States court of  
23 appeals for the circuit wherein such person resides or such  
24 person has a principal place of business for judicial review  
25 of such decision. A copy of the petition shall be forthwith

1 transmitted by the clerk of the court to the Secretary. The  
2 Secretary's decision shall be set aside if found to be arbitrary,  
3 capricious, an abuse of discretion, or otherwise not  
4 in accordance with law.

5 “(4) Nothing in this Act shall apply to working conditions  
6 covered by the Federal Mine Safety and Health Act  
7 of 1977 (30 U.S.C. 801 et seq.).”.

8 **SEC. 303. APPLICATION OF OSHA TO DOE NUCLEAR FACILITIES.**  
9

10 Paragraph (6) of section 4(b) (29 U.S.C. 653(b)(6))  
11 (as so redesignated by section 302(1)) is amended to read  
12 as follows:

13 “(6) Notwithstanding paragraph (1), this Act  
14 shall apply with respect to employment performed in  
15 the Federal nuclear facilities under the control or jurisdiction  
16 of the Department of Energy.”.

17 **SEC. 304. EXTENSION OF EMPLOYER DUTIES TO ALL EMPLOYEES WORKING AT A PLACE OF EMPLOYMENT.**  
18  
19

20 Paragraph (1) of section 5(a) (29 U.S.C. 654(a)(1))  
21 is amended to read as follows:

22 “(1) shall furnish employment and a place of  
23 employment which are free from recognized hazards  
24 that are causing or are likely to cause death or seri-

1       ous physical harm to the employees of the employer  
2       or to other employees at the place of employment.”.

### 3   **TITLE IV—OCCUPATIONAL SAFE-** 4   **TY AND HEALTH STANDARDS**

#### 5   **SEC. 401. TIME FRAMES FOR SETTING STANDARDS.**

6       (a) RECOMMENDATIONS AND PETITIONS FOR STAND-  
7   ARDS.—Paragraph (2) of section 6(b) (29 U.S.C.  
8   655(b)(2)) is amended to read as follows:

9               “(2)(A) If the Secretary receives—

10               “(i) a recommendation of an advisory com-  
11               mittee, the Secretary of Health and Human  
12               Services, or the Administrator of the Environ-  
13               mental Protection Agency; or

14               “(ii) a petition from an interested person  
15               which sets forth with reasonable particularity  
16               the facts which the person claims establish that  
17               an occupational safety or health standard  
18               should be promulgated, modified or revoked;

19       the Secretary shall, within 90 days of the receipt of  
20       the recommendation or petition, publish in the Fed-  
21       eral Register a response stating whether the Sec-  
22       retary intends to publish a proposed rule promulgat-  
23       ing, modifying or revoking such standard.

24               “(B) If the Secretary’s response states that the  
25       Secretary does not intend to publish a proposed rule,

1 the Secretary shall set forth the reasons for that de-  
2 cision. In all other cases, the Secretary shall, within  
3 12 months of the decision, publish in the Federal  
4 Register a proposed rule promulgating, modifying,  
5 or revoking the standard cited in the petition or rec-  
6 ommendation.”.

7 (b) PROCEDURE FOR COMMENT AND HEARING.—  
8 Paragraph (3) of section 6(b) (29 U.S.C. 655(b)(3)) is  
9 amended—

10 (1) by redesignating such paragraph as sub-  
11 paragraph (B);

12 (2) by striking out “under paragraph (2)”;

13 (3) by inserting immediately before subpara-  
14 graph (B) (as so redesignated) the following new  
15 subparagraph:

16 “(3)(A) Where information developed by the  
17 Secretary or submitted to the Secretary indicates  
18 that a rule should be proposed promulgating, modi-  
19 fying, or revoking an occupational safety or health  
20 standard, the Secretary shall publish such a pro-  
21 posed rule in the Federal Register and shall afford  
22 interested persons a period of at least 30 days after  
23 publication to submit written data or comments.”.

24 (c) TIME FRAME FOR ISSUING RULES.—Section  
25 6(b)(4) (29 U.S.C. 655(b)(4)) is amended by striking out



1 “Within” and all that follows through “paragraph (3)”  
2 and inserting in lieu thereof “Within 18 months of publi-  
3 cation of a proposed rule under paragraph (2)(B)”.

4 (d) REVIEW OF SECRETARY’S FAILURE OR REFUSAL  
5 TO ISSUE RULES.—Section 6 (29 U.S.C. 655) is amended  
6 by adding at the end thereof the following new subsection:

7 “(h)(1) Any person who may be adversely affected by  
8 a determination by the Secretary under subsection (b)(2)  
9 not to propose a rule promulgating, modifying, or revoking  
10 a standard may at any time prior to the sixtieth day after  
11 such determination is published in the Federal Register  
12 file a petition seeking review of such determination with  
13 the United States court of appeals for the circuit wherein  
14 such person resides or such person has a principal place  
15 of business. A copy of the petition shall be forthwith trans-  
16 mitted by the clerk of the court to the Secretary. The Sec-  
17 retary’s determination shall be set aside if found to be ar-  
18 bitrary, capricious, an abuse of discretion, or otherwise not  
19 in accordance with law.

20 “(2) Any person who may be adversely affected by  
21 a failure of the Secretary to take any action required by  
22 this section within the time period prescribed therefor by  
23 this section may at any time after such period of time has  
24 elapsed file a petition for review stating that such action  
25 has been unlawfully withheld or unreasonably delayed.

1 Such petition may be filed with the United States court  
2 of appeals for the circuit wherein such person resides or  
3 such person has a principal place of business. A copy of  
4 the petition shall be forthwith transmitted by the clerk of  
5 the court to the Secretary. The reviewing court shall com-  
6 pel the Secretary to take any action that is found to have  
7 been unlawfully withheld or unreasonably delayed. The  
8 Secretary's desire to confer with, or to receive approval  
9 from any other Federal agency or Federal executive offi-  
10 cial, shall not justify the withholding or delaying of action  
11 by the Secretary, except where such consultation or solici-  
12 tation of approval is required by statute and has been pur-  
13 sued in a timely fashion."

14 (e) JUDICIAL REVIEW.—Section 6(f) (29 U.S.C.  
15 655(f)) is amended—

16 (1) by inserting after the first sentence the fol-  
17 lowing new sentence: "However, no contention that  
18 the standard is infeasible may be entertained in such  
19 petition unless the contention and evidence to sup-  
20 port the contention were presented to the Secretary  
21 in the rulemaking proceeding wherein the challenged  
22 standard was promulgated."; and

23 (2) by adding at the end thereof the following  
24 new sentence: "The procedures under this subsection  
25 shall be the exclusive means of challenging the valid-

1       ity of any occupational safety or health standard and  
2       the validity of any such standard may not be raised  
3       in an enforcement action under section 10 or 11.”.

4   **SEC. 402. BASIS FOR STANDARDS.**

5       Paragraph (8) of section 3 (29 U.S.C. 652(8)) is  
6   amended to read as follows:

7           “(8) The term ‘occupational safety and health  
8       standard’ means a standard which addresses a sig-  
9       nificant risk to the safety or health of employees by  
10      requiring conditions, or the adoption or use of one  
11      or more practices, means, methods, operations, or  
12      processes that most adequately assure, to the extent  
13      feasible, safe and healthful employment and places  
14      of employment.”.

15   **SEC. 403. RECORDING OF WORK RELATED ADVERSE MEDI-**  
16                   **CAL CONDITIONS.**

17      Section 6(b)(7) (29 U.S.C. 655(b)(7)) is amended by  
18   inserting after the third sentence the following new sen-  
19   tence: “The standard shall also prescribe requirements for  
20   recording or reporting work-related adverse medical condi-  
21   tions determined as a result of medical examinations or  
22   tests conducted under the standard.”.

1 **SEC. 404. PUBLIC DISCLOSURE OF ALL COMMUNICATIONS**  
2 **ON STANDARDS.**

3 Section 6(b) (29 U.S.C. 655(b)) is amended by add-  
4 ing at the end thereof the following new paragraph:

5 “(9) The Secretary shall place all written com-  
6 ments and communications and a summary of all  
7 verbal communications with parties outside the De-  
8 partment of Labor (including communications with  
9 executive branch officials but not including commu-  
10 nications with the President) regarding the promul-  
11 gation, modification, or revocation of a standard  
12 under this section in the public record not later than  
13 10 working days after the receipt of such commu-  
14 nications.”.

15 **SEC. 405. REVISION OF PERMISSIBLE EXPOSURE LIMITS.**

16 Section 6 (29 U.S.C. 655) (as amended by section  
17 401(d)) is further amended by adding at the end thereof  
18 the following new subsection:

19 “(i) In addition to other health and safety standards  
20 promulgated under subsection (b), the Secretary shall, in  
21 cooperation with the Secretary of Health and Human  
22 Services, modify and establish exposure limits for toxic  
23 materials and harmful physical agents on a regular basis  
24 in the following manner and in accordance with the re-  
25 quirements of subsection (b)(5):

1           “(1) The Secretary of Health and Human Serv-  
2           ices, acting through the National Institute for Occu-  
3           pational Safety and Health, shall regularly evaluate  
4           available scientific evidence, data, and information to  
5           determine if exposure limits for toxic materials and  
6           harmful physical agents promulgated under sub-  
7           sections (a) and (b) should be modified or if expo-  
8           sure limits for other toxic materials and harmful  
9           physical agents should be established to protect ex-  
10          posed employees from material impairment of health  
11          or functional capacity. Such evaluation shall include  
12          a review of the scientific literature, standards of pri-  
13          vate and professional organizations, national consen-  
14          sus standards, standards adopted by other countries,  
15          recommendations of State and Federal agencies, and  
16          consideration of whether such toxic materials and  
17          harmful physical agents pose a significant risk to  
18          employee health or safety.

19          “(2) At least once every 3 years the Secretary  
20          of Health and Human Services, acting through the  
21          National Institute for Occupational Safety and  
22          Health, shall, on the basis of the evaluation under  
23          paragraph (1), develop and transmit to the Sec-  
24          retary recommendations identifying toxic materials  
25          and harmful physical agents, if any, for which expo-

1       sure limits should be modified or established to pro-  
2       tect employees from material impairment of health  
3       or functional capacity. For each such material or  
4       agent, the recommendation shall include a suggested  
5       permissible exposure limit, the basis for the sug-  
6       gested exposure limit, and, where available, informa-  
7       tion on feasible control measures.

8           “(3) Within 30 days of the receipt of rec-  
9       ommendations under paragraph (2), the Secretary  
10      shall publish the recommendations on exposure lim-  
11      its in the Federal Register and provide a period of  
12      30 days for public comment. The Secretary shall  
13      evaluate the recommendations and public comments  
14      and, within 6 months of the receipt of the rec-  
15      ommendations, shall publish a proposed rule to mod-  
16      ify, maintain, or establish exposure limits for each  
17      toxic material and harmful physical agent for which  
18      the Secretary of Health and Human Services has  
19      recommended that such a limit should be modified  
20      or established. If a proposed exposure limit is not  
21      the same as the exposure limit suggested by the Sec-  
22      retary of Health and Human Services, the Secretary  
23      shall explain why the recommended limit is not being  
24      proposed.

1           “(4) Within 1 year of the publication of the  
2       proposed exposure limits under paragraph (3), the  
3       Secretary shall issue a final standard, which stand-  
4       ard shall be subject to the requirements of sub-  
5       section (b)(5). If a final exposure limit is not the  
6       same as the exposure limit recommended by the Sec-  
7       retary of Health and Human Services, the Secretary  
8       shall explain why the recommended exposure limit is  
9       not being adopted.

10           “(5) In addition to the periodic review of per-  
11       missible exposure limits required by this subsection,  
12       the Secretary shall also establish or modify exposure  
13       limits for toxic materials and harmful physical  
14       agents whenever such action is warranted, pursuant  
15       to subsections (b)(5) and (g).”.

16 **SEC. 406. EXPOSURE MONITORING AND HEALTH SURVEIL-**  
17 **LANCE.**

18       Section 6 (42 U.S.C. 655) (as amended by section  
19 405) is further amended by adding at the end thereof the  
20 following new subsection:

21       “(j) Within 2 years of the effective date of the Com-  
22 prehensive Occupational Safety and Health Reform Act,  
23 the Secretary shall promulgate final standards on expo-  
24 sure monitoring and health surveillance programs in the  
25 following manner and in accordance with subsection (b):

1           “(1) The standard on exposure monitoring shall  
2 include the following:

3           “(A) Requirements for a formal exposure  
4 assessment where workers may be exposed to  
5 toxic materials or harmful physical agents  
6 which are subject to standards issued under  
7 this section, including toxic materials or harm-  
8 ful physical agents.

9           “(B) Requirements for regular monitoring  
10 and measurement of toxic materials or harmful  
11 physical agents for which an exposure limit has  
12 been established by the Secretary or adopted by  
13 the employer if such monitoring and measure-  
14 ments will assist in protecting the health and  
15 safety of workers exposed to such toxic mate-  
16 rials or harmful physical agents.

17           “(C) Requirements for a written compli-  
18 ance plan for reducing exposures where expo-  
19 sures are determined to exceed limits estab-  
20 lished by the Secretary or adopted by the em-  
21 ployer.

22           “(D) Requirements for employees to be no-  
23 tified in writing of exposures to toxic materials  
24 or harmful physical agents above exposure lim-  
25 its established by the Secretary or adopted by



1 the employer and the steps the employer is tak-  
2 ing to reduce such exposures.

3 “(E) Requirements for maintenance and  
4 access to records of exposure to toxic materials  
5 or harmful physical agents.

6 “(2) The standard on health surveillance pro-  
7 grams shall include the following:

8 “(A) Requirements for an evaluation of  
9 employee exposure assessments and exposure  
10 monitoring to identify which employees may be  
11 at risk of material impairment of health or  
12 functional capacity due to exposure to toxic ma-  
13 terials or harmful physical agents.

14 “(B) Requirements for periodic medical ex-  
15 aminations for employees identified to be at  
16 risk of material impairment of health or func-  
17 tional capacity due to exposure to toxic mate-  
18 rials or harmful physical agents where such ex-  
19 aminations are appropriate to identify or to  
20 prevent material impairment of health or func-  
21 tional capacity.

22 “(C) Requirements for the evaluation of  
23 the results of medical examinations to deter-  
24 mine if an employee or a group of employees  
25 are exhibiting indications of present or potential

1 material impairment of health or functional ca-  
2 pacity due to exposure to toxic substances or  
3 harmful physical agents.

4 “(D) Requirements for the notification of  
5 employees of the results of medical examina-  
6 tions in a manner that is understood by the em-  
7 ployees.

8 “(E) Provisions setting forth the qualifica-  
9 tions for health care providers who may conduct  
10 required medical examinations. Where feasible,  
11 the Secretary in cooperation with the Secretary  
12 of Health and Human Services shall establish  
13 criteria and procedures for the certification of  
14 health care providers who conduct medical ex-  
15 aminations.

16 “(F) Provisions to assure the confidential-  
17 ity of personally identifiable medical informa-  
18 tion.

19 “(G) Provisions to prohibit discrimination  
20 against employees based on the results of medi-  
21 cal examinations, and, as appropriate, provi-  
22 sions to provide protection of the wages, bene-  
23 fits, and other terms and conditions of employ-  
24 ment of employees who are transferred or re-

1 moved from their jobs due to the result of medi-  
2 cal examinations.

3 “(H) Records developed under this sub-  
4 section shall be maintained and made available  
5 according to regulations published at section  
6 1910.20 of title 29, Code of Federal Regula-  
7 tions.”.

8 **SEC. 407. STANDARD ON ERGONOMIC HAZARDS.**

9 Section 6 (42 U.S.C. 655) (as amended by section  
10 406) is further amended by adding at the end thereof the  
11 following new subsection:

12 “(k) Within 2 years of the effective date of the Com-  
13 prehensive Occupational Safety and Health Reform Act,  
14 the Secretary shall issue a final standard on ergonomic  
15 hazards to protect employees from work-related musculo-  
16 skeletal disorders in accordance with subsection (b)(5).  
17 The standard shall include the following:

18 “(1) Requirements for an ergonomics program  
19 where employees are exposed to ergonomic hazards  
20 which include provisions for hazard identification,  
21 control measures, medical management, training and  
22 education, and employee participation.

23 “(2) Requirements for an evaluation of job  
24 processes, work station design, rate of work, and  
25 work methods to identify ergonomic risk factors that

1       cause or are likely to cause musculoskeletal dis-  
2       orders.

3           “(3) Requirements for control measures to re-  
4       duce stressors and musculoskeletal disorders, includ-  
5       ing engineering controls, new equipment, or work or-  
6       ganization controls.

7           “(4) Requirements for an effective medical  
8       management program for musculoskeletal disorders,  
9       including requirements for qualified health care pro-  
10      viders, health surveillance, appropriate diagnosis,  
11      treatment, and followup.

12          “(5) Requirements for recording musculo-  
13      skeletal disorders as an illness and reporting such  
14      illnesses to the Secretary.

15          “(6) Requirements for training and education  
16      of employees exposed to ergonomic hazards on  
17      ergonomic risk factors, control measures, and the  
18      employer’s medical management program.

19          “(7) Requirements for employee participation in  
20      the establishment and implementation of the employ-  
21      er’s ergonomic program through any safety and  
22      health committee established under section 28.”.

23   **SEC. 408. EMERGENCY TEMPORARY STANDARDS.**

24       Section 6(c) (29 U.S.C. 655(c)) is amended—

1           (1) in paragraph (1) by striking out “if he de-  
2       termines” and inserting in lieu thereof “if the Sec-  
3       retary determines on the basis of the best available  
4       evidence”; and

5           (2) in paragraph (3), by striking out “six  
6       months” and inserting in lieu thereof “18 months”.

7   **SEC. 409. AIR CONTAMINANTS.**

8       Notwithstanding the provisions of chapter 5 of title  
9   5, United States Code, or the provisions of section 6 of  
10   the Occupational Safety and Health Act of 1970, the Sec-  
11   retary of Labor shall, not later than 60 days after the  
12   date of the enactment of the Comprehensive Occupational  
13   Safety and Health Reform Act, by rule promulgate as an  
14   occupational safety or health standard—

15           (1) the final rule on air contaminants published  
16       at 54 Federal Register 2332 (January 19, 1989);  
17       and

18           (2) the proposed rule on air contaminants for  
19       construction, agriculture, and maritime published at  
20       57 Federal Register 26001 (June 12, 1992).

21   The rule mandated by this section shall take effect upon  
22   its issuance, however, the Secretary may provide in such  
23   rule for a reasonable delay in the compliance deadlines for  
24   specific provisions. Such rule after its issuance may be  
25   modified or revoked in the same manner as any occupa-

1 tional safety or health standard promulgated pursuant to  
 2 section 6 of the Occupational Safety and Health Act of  
 3 1970.

## 4 **TITLE V—ENFORCEMENT**

### 5 **SEC. 501. NO LOSS OF EMPLOYEE PAY FOR INSPECTIONS.**

6 Section 8(e) (29 U.S.C. 657(e)) is amended by insert-  
 7 ing after the first sentence the following new sentence:  
 8 “Time spent by an employee on any such inspection shall  
 9 be deemed to be hours worked and no employee shall suf-  
 10 fer any loss of wages, benefits, and other terms and condi-  
 11 tions of employment for having participated in the inspec-  
 12 tion.”.

### 13 **SEC. 502. TIME FRAME FOR RESPONSE TO COMPLAINTS.**

14 The last sentence of section 8(f)(1) (29 U.S.C.  
 15 657(f)(1)) is amended by inserting before the period the  
 16 following: “not later than 30 days after the receipt of the  
 17 request for inspection”.

### 18 **SEC. 503. COMPLAINTS.**

19 Section (8)(f)(1) (29 U.S.C. 657(f)(1)) is amended—

20 (1) in the first sentence by inserting “the Act  
 21 or” after “a violation of”;

22 (2) in the second sentence, by striking out “Any  
 23 such notice” and all that follows through “and a  
 24 copy shall be provided” and inserting in lieu thereof  
 25 the following: “Any such notice shall set forth with

1 reasonable particularity the grounds for the notice,  
2 and a copy of the notice if written or a summary of  
3 the notice if oral shall be provided”; and

4 (3) by adding at the end thereof the following  
5 new sentence: “The Secretary shall make a special  
6 inspection in accordance with this section upon noti-  
7 fication from any Federal or State agency that there  
8 are reasonable grounds to believe that a violation of  
9 this Act or a safety and health standard exists that  
10 threatens physical harm or that an imminent danger  
11 exists.”.

12 **SEC. 504. MANDATORY SPECIAL EMPHASIS.**

13 Section 8 (29 U.S.C. 657) is amended by adding at  
14 the end thereof the following new subsection:

15 “(h)(1) The Secretary shall establish and carry out  
16 a special emphasis inspection program for conducting in-  
17 spections of industries or operations where—

18 “(A) existing hazards; or

19 “(B) newly recognized or new hazards intro-  
20 duced into worksites;

21 warrant more intensive than normal inspections, as deter-  
22 mined by the Secretary.

23 “(2) The Secretary shall annually designate the in-  
24 dustries and operations for the special emphasis inspection  
25 program and identify the number of special emphasis in-

1 inspections that the Secretary plans to conduct in each des-  
2 ignated industry and operation and the number of enforce-  
3 ment personnel required for such inspections.

4 “(3) Inspections conducted under paragraph (1) shall  
5 be in addition to other programmed and complaint inspec-  
6 tions conducted under this Act.

7 “(4) The Secretary shall annually submit a report to  
8 the Congress on the special emphasis inspection program  
9 as part of the Secretary’s annual report required under  
10 section 26 which shall include information on inspections  
11 conducted pursuant to paragraph (2) which were carried  
12 out during the preceding year.”.

13 **SEC. 505. INVESTIGATIONS OF DEATHS AND SERIOUS INCI-**  
14 **DENTS.**

15 Section 8 (29 U.S.C. 657) (as amended by section  
16 504) is further amended by adding at the end thereof the  
17 following new subsection:

18 “(i)(1) The Secretary shall investigate any work-  
19 related death or serious incident.

20 “(2) If a death or serious incident occurs in a place  
21 of employment covered by this Act, the employer shall no-  
22 tify the Secretary of the death or serious incident in ac-  
23 cordance with section 24(a)(5) and shall take appropriate  
24 measures to prevent the destruction or alteration of any  
25 evidence that would assist in investigating the death or



1 serious incident. The appropriate measures required by  
 2 this paragraph do not prevent an employer from taking  
 3 action on a worksite to prevent injury to employees or sub-  
 4 stantial damage to property. If an employer takes such  
 5 action, the employer shall notify the Secretary of the ac-  
 6 tion in a timely fashion.

7 “(3) As used in this subsection, the term ‘serious in-  
 8 cident’ means an incident that results in the hospitaliza-  
 9 tion of two or more employees.”.

10 **SEC. 506. ABATEMENT OF SERIOUS HAZARDS DURING EM-**  
 11 **PLOYER CONTESTS.**

12 (a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is  
 13 amended by inserting after the third sentence the follow-  
 14 ing new sentence: “If the Secretary or an authorized rep-  
 15 resentative of the Secretary believes that an alleged viola-  
 16 tion is serious and presents such a substantial risk to the  
 17 safety or health of employees that the initiation of review  
 18 proceedings should not suspend the running of the period  
 19 for the correction of the violation, the citation shall so  
 20 state.”.

21 (b) CITATIONS AND ENFORCEMENT.—Section 10 (29  
 22 U.S.C. 659) is amended—

23 (1) in subsection (b), by striking out “(which  
 24 period shall not begin to run until the entry of a  
 25 final order by the Commission in the case of any re-

1 view proceedings under this section initiated by the  
2 employer in good faith and not solely for delay or  
3 avoidance of penalties)”; and

4 (2) by adding at the end thereof the following  
5 new subsection:

6 “(d)(1) Except as provided in paragraphs (2) and  
7 (3), the period permitted for the correction of a violation  
8 shall begin to run from the date of the receipt of the cita-  
9 tion.

10 “(2) If the employer initiates timely review proceed-  
11 ings under this section in which the employer contests  
12 matters other than the proposed assessment of penalty or  
13 characterization of the violation and the proceedings are  
14 initiated by the employer in good faith and not solely for  
15 delay, the period permitted for the correction of a violation  
16 shall, except as provided in paragraph (3), not begin to  
17 run until the entry of a final order by the Commission.

18 “(3) If the citation states that the violation is serious  
19 and presents such a substantial risk to the safety or health  
20 of employees that the initiation of review proceedings shall  
21 not suspend the running of the period for correction of  
22 the violation and if, simultaneous with initiating timely re-  
23 view proceedings under the citation, the employer files a  
24 statement asserting that the period for correction of the  
25 violation should be suspended during such proceedings,

1 the Commission shall expedite the consideration and deci-  
2 sion of the employer's review proceeding. In its decision  
3 resolving that proceeding, the Commission may modify the  
4 citation's provision that the period for the correction of  
5 the violation shall run from the date of the receipt of the  
6 citation, if the Commission determines, based on a consid-  
7 eration of the nature of the violation, that the nature and  
8 degree of risk posed to employees by the employer's refusal  
9 to undertake prompt correction of the violation, and the  
10 extent of any irreparable injury the employer would incur  
11 by undertaking correction of the violation during the pend-  
12 ency of review proceedings, that such provision is unrea-  
13 sonable in the circumstances."

14 (c) PENALTIES.—Section 17(d) (29 U.S.C. 666(d))  
15 is amended by striking out "(which period shall not begin  
16 to run until the date of the final order of the Commission  
17 in the case of any review proceeding under section 10 initi-  
18 ated by the employer in good faith and not solely for delay  
19 or avoidance of penalties)".

20 (d) EMPLOYER CONTEST.—Section 10(c) (29 U.S.C.  
21 659(c)) is amended by inserting after the first sentence  
22 the following new sentence: "The pendency of a contest  
23 before the Commission shall not bar the Secretary from  
24 inspecting a place of employment or from issuing a cita-  
25 tion under section 9."

1 (e) STATUTE OF LIMITATION.—Section 9(c) (29  
2 U.S.C. 658(c)) is amended by adding at the end thereof  
3 the following new sentence: “The 6-month time limit shall  
4 not apply to a notification of penalty.”.

5 (f) VERIFICATION OF ABATEMENT.—Section 10 (as  
6 amended by subsection (b)) is further amended by adding  
7 at the end thereof the following new subsection:

8 “(e)(1) Each employer to whom a citation for a seri-  
9 ous, willful or repeated violation has been issued under  
10 section 9 shall verify the abatement of such violation in  
11 writing to the Secretary not later than 30 days after the  
12 period for the correction of the violation has expired. Such  
13 verification shall include appropriate documentary evi-  
14 dence. Each such employer shall prominently post, within  
15 10 days after the verification of abatement, at or near  
16 each place that a violation referred to in the citation oc-  
17 curred, a notice that the violation has been abated, and  
18 shall make available to employees and employee represent-  
19 atives for inspection a copy of the verification of abate-  
20 ment provided to the Secretary pursuant to this sub-  
21 section.

22 “(2) Not later than 1 year after the effective date  
23 of this subsection, the Secretary shall promulgate final  
24 regulations regarding the requirements of this sub-  
25 section.”.

1 **SEC. 507. RIGHT TO CONTEST CITATIONS AND PENALTIES.**

2 The first sentence of section 10(c) (29 U.S.C. 659(c))  
3 is amended—

4 (1) by inserting after “the issuance of a cita-  
5 tion” the following: “or a modification of a citation  
6 issued”; and

7 (2) by inserting after “files a notice with the  
8 Secretary” the following: “alleging that the citation  
9 fails properly to designate the violation as serious,  
10 willful, or repeated, or that the proposed penalty is  
11 not adequate, or”.

12 **SEC. 508. RIGHT OF EMPLOYEE REPRESENTATIVES TO PAR-**  
13 **TICIPATE IN OTHER PROCEEDINGS.**

14 The last sentence of section 10(c) (29 U.S.C. 659(c))  
15 is amended by striking out “hearings” and inserting in  
16 lieu thereof “proceedings”.

17 **SEC. 509. OBJECTIONS TO MODIFICATION OF CITATIONS.**

18 Section 10 (29 U.S.C. 659) (as amended by section  
19 506(e)) is amended by adding at the end thereof the fol-  
20 lowing new subsection:

21 “(f)(1) If the Secretary intends to withdraw or to  
22 modify a citation as a result of any agreement with the  
23 cited employer, the rules of procedure prescribed by the  
24 Commission shall provide for prompt notice to affected  
25 employees or representatives of affected employees, and

1 which notice shall include the terms of the proposed agree-  
2 ment.

3 “(2) Not later than 15 working days after the receipt  
4 of the notice provided in accordance with paragraph (1),  
5 any employee or representative of employees, regardless  
6 of whether such employee or representative has previously  
7 elected to participate in the proceedings, shall have the  
8 right to file a notice with the Secretary alleging that the  
9 proposed agreement fails to effectuate the purposes of this  
10 Act and stating the respects in which it fails to do so.

11 “(3) Upon receipt of a notice filed under paragraph  
12 (2), the Secretary shall consider the matter, and if the  
13 Secretary determines to proceed with the proposed agree-  
14 ment, the Secretary shall respond with particularity to the  
15 statements presented in that notice.

16 “(4) Not later than 15 working days following the  
17 Secretary’s response provided pursuant to paragraph (3),  
18 the employee or representative of employees shall, upon  
19 a request to the Commission, have the right to a hearing  
20 as to whether adoption of the proposed agreement would  
21 effectuate the purposes of this Act, including a determina-  
22 tion as to whether the proposed agreement would ade-  
23 quately abate the alleged violations.

24 “(5) If the Commission determines that a proposed  
25 agreement fails to effectuate the purposes of this Act, the

1 proposed agreement shall not be entered as an order of  
2 the Commission and the citation shall not be withdrawn  
3 or modified in accordance with the proposed agreement.”.

4 **SEC. 510. IMMINENT DANGER INSPECTIONS.**

5 (a) SPECIAL CONDITIONS AND PRACTICES.—Section  
6 13 (29 U.S.C. 662) is amended—

7 (1) by striking out subsection (c);

8 (2) by redesignating subsections (a) and (b) as  
9 subsections (b) and (c), respectively;

10 (3) by inserting before subsection (b) (as so re-  
11 designated) the following new subsection:

12 “(a)(1) If the Secretary determines, on the basis of  
13 an inspection or investigation under this section, that a  
14 condition or practice in a place of employment is such that  
15 an imminent danger to safety or health exists that could  
16 reasonably be expected to cause death or serious physical  
17 harm or permanent impairment of the health or functional  
18 capacity of an employee if not corrected immediately, the  
19 Secretary shall so inform the employer and affected em-  
20 ployees and shall request that the condition or practice  
21 be corrected immediately or that employees be imme-  
22 diately removed from exposure to such danger.

23 “(2) If the employer refuses to comply with a request  
24 under paragraph (1), the Secretary shall immediately  
25 cause notice to be posted in the workplace identifying the

1 equipment, process, or practice that is the source of the  
2 imminent danger. Such notice shall take the form of a tag  
3 or other device that will be seen by employees who might  
4 otherwise be exposed to the dangerous equipment, process,  
5 or practice. The notice shall be removed only by the Sec-  
6 retary.

7 “(3) The fact that notice under paragraph (2) has  
8 been posted shall be noted in any citation issued pursuant  
9 to section 9 with respect to the hazard involved.

10 “(4) No person shall discharge or in any manner dis-  
11 criminate against any employee because such employee  
12 has refused to perform a duty that would expose the em-  
13 ployee to the condition or a practice that has been identi-  
14 fied as the source of an imminent danger by a notice post-  
15 ed pursuant to paragraph (2). The right to refuse to per-  
16 form such a duty shall be in addition to any other right  
17 to refuse to perform hazardous work that is afforded to  
18 employees by this Act, by standards or regulations issued  
19 pursuant to this Act, by contract, or by other applicable  
20 law.”; and

21 (4) in the first sentence of subsection (b) (as so  
22 redesignated) to read as follows: “The United States  
23 district courts shall have jurisdiction, upon petition  
24 of the Secretary, to restrain any conditions or prac-



1 tices in any place of employment which pose an im-  
 2 minent danger as described in subsection (a).”.

3 (b) PENALTIES.—Section 17 is amended—

4 (1) by redesignating subsections (h) through (l)  
 5 as subsections (i) through (m), respectively; and

6 (2) by inserting after subsection (g) the follow-  
 7 ing new subsection:

8 “(h) In the event that an employer does not imme-  
 9 diately correct the hazard referenced in a notice posted  
 10 under section 13(a)(2) or remove all employees from expo-  
 11 sure thereto, the employer shall be assessed a civil penalty  
 12 of not less than \$10,000 and not more than \$50,000 for  
 13 each day during which an employee continues to be ex-  
 14 posed to the hazard unless the Commission determines  
 15 that the condition or practice is not of such a nature as  
 16 to be covered by section 13(a).”.

17 **SEC. 511. CITATIONS AND PENALTIES FOR VIOLATIONS OF**  
 18 **SECTIONS 27, 28 AND 31.**

19 (a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is  
 20 amended by inserting “, 27, 28, or 31” after “section 5”.

21 (b) PENALTIES.—Section 17 (29 U.S.C. 666) is  
 22 amended—

23 (1) in subsection (a), by inserting “, 27, 28, or  
 24 31” after “section 5”;

1           (2) in subsection (b), by inserting “, 27, 28, or  
2       31” after “section 5”; and

3           (3) in subsection (c), by inserting “, 27, 28, or  
4       31” after “section 5”.

5   **SEC. 512. OSHA CRIMINAL PENALTIES.**

6       (a) IN GENERAL.—Section 17 (29 U.S.C. 666) (as  
7   amended by section 510(b)) is further amended—

8           (1) in subsection (e)—

9               (A) by inserting after “employer” the fol-  
10            lowing: “or any officer, management official, or  
11            supervisor having direction, management, con-  
12            trol, or custody of any place of employment”;

13            (B) by striking out “fine of not more than  
14            \$10,000” and inserting in lieu thereof “fine in  
15            accordance with section 3571 of title 18, United  
16            States Code,”;

17            (C) by striking out “six months” and in-  
18            serting in lieu thereof “10 years”;

19            (D) by striking out “fine of not more than  
20            \$20,000” and inserting in lieu thereof “fine in  
21            accordance with section 3571 of title 18, United  
22            States Code,”;

23            (E) by striking out “one year” and insert-  
24            ing in lieu thereof “20 years”; and

1 (F) by inserting “under this subsection or  
2 subsection (i)” after “first conviction of such  
3 person”;

4 (2) in subsection (f), by striking out “fine of  
5 not more than \$1,000 or by imprisonment for not  
6 more than six months,” and inserting in lieu thereof  
7 “fine in accordance with section 3571 of title 18,  
8 United States Code, or by imprisonment for not  
9 more than 2 years,”;

10 (3) in subsection (g), by striking out “fine of  
11 not more than \$10,000, or by imprisonment for not  
12 more than six months,” and inserting in lieu thereof  
13 “fine in accordance with section 3571 of title 18,  
14 United States Code, or by imprisonment for not  
15 more than 1 year,”;

16 (4) by redesignating subsections (i) through  
17 (m) as subsections (j) through (n), respectively;

18 (5) by inserting after subsection (h) the follow-  
19 ing new subsection:

20 “(i) Any employer or any officer, management offi-  
21 cial, or supervisor having direction, management, control,  
22 or custody of any place of employment who willfully vio-  
23 lates any standard, rule, or order promulgated pursuant  
24 to section 6, or any regulation prescribed pursuant to this  
25 Act, and that violation causes serious bodily injury to any

1 employee but does not cause death to any employee, shall,  
 2 upon conviction, be punished by a fine in accordance with  
 3 section 3571 of title 18, United States Code, or by impris-  
 4 onment for not more than 5 years, or by both, except that  
 5 if the conviction is for a violation committed after a first  
 6 conviction of such person under this subsection or sub-  
 7 section (e), punishment shall be by a fine in accordance  
 8 with section 3571 of title 18, United States Code, or by  
 9 imprisonment for not more than 10 years, or by both,”;  
 10 and

11 (6) by adding at the end the following new sub-  
 12 section:

13 “(o) If a penalty or fine is imposed on a director,  
 14 officer, or agent of an employer under subsection (e), (f),  
 15 (g), or (i), such penalty or fine shall not be paid out of  
 16 the assets of the employer on behalf of that individual.”.

17 (b) DEFINITION.—Section 3 (29 U.S.C. 652) is  
 18 amended by adding at the end thereof the following new  
 19 subsection:

20 “(15) The term ‘serious bodily injury’ means  
 21 bodily injury that involves—

22 “(A) a substantial risk of death;

23 “(B) protracted unconsciousness;

24 “(C) protracted and obvious physical dis-  
 25 figurement; or

1           “(D) protracted loss or impairment of the  
2           function of a bodily member, organ, or mental  
3           faculty.”.

4           (c) JURISDICTION FOR PROSECUTION UNDER STATE  
5 AND LOCAL CRIMINAL LAWS.—Section 17 (29 U.S.C.  
6 666) (as amended by subsection (a)) is further amended  
7 by adding at the end thereof the following new subsection:  
8           “(p) Nothing in this Act shall preclude State and  
9 local law enforcement agencies from conducting criminal  
10 prosecutions in accordance with the laws of such State or  
11 locality.”.

12 **SEC. 513. COMMISSION MEMBER’S TERMS.**

13           Section 12(b) (29 U.S.C. 661(b)) is amended by in-  
14 serting after the first sentence the following new sentence:  
15           “A member of the Commission may serve after the expira-  
16 tion of the member’s term until a successor has taken of-  
17 fice.”.

18 **SEC. 514. INSPECTIONS.**

19           Section 8(a) (29 U.S.C. 657(a)) is amended by add-  
20 ing after paragraph (2) the following new flush left margin  
21 sentence: “In carrying out the inspection authority under  
22 this section, the Secretary shall establish an effective sys-  
23 tem for targeting inspections of worksites, especially work-  
24 sites with a high potential for death, serious injury, or ex-  
25 posure to toxic materials or harmful physical agents and

1 shall establish priorities for such inspections to ensure  
2 that enforcement activities are concentrated on such work-  
3 sites.”.

4 **SEC. 515. EMPLOYEE ACCOUNTABILITY.**

5 Section 9 (29 U.S.C. 658) is amended by adding at  
6 the end thereof the following new subsection:

7 “(d) A citation issued under subsection (a) to an em-  
8 ployer who violates the requirements of section 5, any  
9 standard, rule, or order promulgated pursuant to section  
10 6, or any other regulation promulgated under this Act  
11 shall be vacated if such employer demonstrates that—

12 “(1) employees of such employer have been pro-  
13 vided with the proper training and equipment to pre-  
14 vent such a violation;

15 “(2) work rules designed to prevent such a vio-  
16 lation have been established and adequately commu-  
17 nicated to employees by such employer and have  
18 been effectively enforced when such a violation has  
19 been discovered;

20 “(3) the failure of employees to observe work  
21 rules led to the violation; and

22 “(4) reasonable steps have been taken by such  
23 employer to discover any such violation.”.

1 **TITLE VI—PROTECTION OF EM-**  
2 **PLOYEES FROM DISCRIMINA-**  
3 **TION**

4 **SEC. 601. ANTIDISCRIMINATION PROVISIONS.**

5 (a) EMPLOYEE ACTIONS.—Section 11(c)(1) (29  
6 U.S.C. 660(c)(1)) is amended by inserting before the pe-  
7 riod at the end thereof the following: “including reporting  
8 any injury, illness or unsafe condition to the employer,  
9 agent of the employer, the safety and health committee,  
10 or employee safety and health representative”.

11 (b) PROCEDURE.—Section 11(c) (29 U.S.C. 660(c))  
12 is amended by striking out paragraphs (2) and (3) and  
13 inserting in lieu thereof the following new paragraphs:

14 “(2) No person shall discharge or in any manner dis-  
15 criminate against an employee for refusing to perform the  
16 employee’s duties when the employee has a reasonable ap-  
17 prehension that performing such duties would result in se-  
18 rious injury to, or serious impairment of the health of,  
19 the employee or other employees. The circumstances caus-  
20 ing the employee’s apprehension of serious injury must be  
21 of such a nature that a reasonable person, under the cir-  
22 cumstances then confronting the employee, would conclude  
23 that there is a bona fide danger of a serious injury or  
24 serious impairment of health resulting from the cir-  
25 cumstances. In order to qualify for protection, the em-

1 ployee, when practicable, must have sought from his em-  
2 ployer, and have been unable to obtain, correction of the  
3 circumstances causing the refusal to perform the employ-  
4 ee's duties.

5       “(3) Any employee who believes that he or she has  
6 been discharged, disciplined, or otherwise discriminated  
7 against by any person in violation of paragraph (1) or (2)  
8 may, within 180 days after such alleged violation occurs,  
9 file (or have filed by any person on the employee's behalf)  
10 a complaint with the Secretary alleging that such dis-  
11 charge, discipline, or discrimination violates paragraph (1)  
12 or (2). Upon receipt of such a complaint, the Secretary  
13 shall notify the person named in the complaint of the filing  
14 of the complaint.

15       “(4)(A)(i) Not later than 60 days after the receipt  
16 of a complaint filed under paragraph (3), the Secretary  
17 shall conduct an investigation and determine whether  
18 there is reasonable cause to believe that the complaint has  
19 merit. During the investigation, the Secretary shall notify  
20 the person named in the complaint of the charges made  
21 in the complaint, shall provide such person with an oppor-  
22 tunity to meet with the inspector conducting the investiga-  
23 tion, to submit a response to such charges, and to present  
24 witnesses to rebut such charges. The Secretary shall also  
25 consider the result of any collectively-bargained grievance



1 proceeding which may have been held with respect to such  
2 charges. Upon completion of the investigation, the Sec-  
3 retary shall notify the complainant and the respondent to  
4 the complaint of the Secretary's findings. Where the Sec-  
5 retary has concluded that there is reasonable cause to be-  
6 lieve that a violation has occurred, the Secretary's findings  
7 shall be accompanied by a preliminary order providing the  
8 relief prescribed by subparagraph (B).

9       “(ii) After the Secretary has made findings, either  
10 the respondent or the complainant may, within 30 days,  
11 file objections to the findings or preliminary order, or  
12 both, and request a hearing on the record, except that the  
13 filing of such objections shall not operate to stay any rein-  
14 statement remedy contained in the preliminary order. If  
15 the Secretary does not issue findings with respect to a  
16 complaint within 90 days of the receipt of the complaint,  
17 the complainant may request a hearing on the record on  
18 the complaint.

19       “(iii) A hearing requested under clause (ii) shall be  
20 expeditiously conducted. Where a hearing is not timely re-  
21 quested, the preliminary order shall be deemed a final  
22 order which is not subject to judicial review. Upon the con-  
23 clusion of such hearing, the Secretary shall issue a final  
24 order within 120 days. In the interim, such proceedings  
25 may be terminated at any time on the basis of a settlement

1 agreement entered into by the Secretary, the complainant,  
2 and the person named in the complaint.

3 “(B) If, in response to a complaint filed under para-  
4 graph (3), the Secretary determines that a violation of  
5 paragraphs (1) or (2) has occurred, the Secretary shall  
6 order—

7 “(i) the person who committed such violation to  
8 correct the violation;

9 “(ii) such person to reinstate the complainant  
10 to the complainant’s former position together with  
11 the compensation (including back pay), terms, condi-  
12 tions, and privileges of the complainant’s employ-  
13 ment; and

14 “(iii) compensatory damages.

15 If such an order is issued, the Secretary, at the request  
16 of the complainant, may assess against the person against  
17 whom the order is issued a sum equal to the aggregate  
18 amount of all costs and expenses (including attorney’s  
19 fees) reasonably incurred, as determined by the Secretary,  
20 by the complainant for, or in connection with, the bringing  
21 of the complaint upon which the order was issued.

22 “(5)(A) Any person adversely affected or aggrieved  
23 by an order issued after a hearing under paragraph (4)(A)  
24 may obtain review of the order in the United States Court  
25 of Appeals for the circuit in which the violation, with re-

1 spect to which the order was issued, allegedly occurred,  
2 or the circuit in which such person resided on the date  
3 of such violation. The petition for review must be filed  
4 within 60 days from the issuance of the Secretary's order.  
5 Such review shall be in accordance with the provisions of  
6 chapter 7 of title 5, United States Code, and shall be  
7 heard and decided expeditiously.

8       “(B) Whenever a person has failed to comply with  
9 an order issued under paragraph (4)(A), the Secretary  
10 shall file a civil action in the United States district court  
11 for the district in which the violation was found to occur  
12 in order to enforce such order. In actions brought under  
13 this subparagraph, the district court shall have jurisdic-  
14 tion to grant all appropriate relief, including injunctive re-  
15 lief, reinstatement, and compensatory damages.

16       “(6) The legal burdens of proof set forth in section  
17 1221(e) of title 5, United States Code, shall govern adju-  
18 dication of protected activities under this subsection.”.

19 **SEC. 602. POSTING OF EMPLOYEE RIGHTS.**

20       Section 8(c)(1) (29 U.S.C. 657(c)(1)) is amended by  
21 adding at the end thereof the following new sentence:  
22 “Such regulations shall include provisions requiring em-  
23 ployers to post for employees the protections afforded  
24 under section 11(c).”.

1 **TITLE VII—OSHA TRAINING AND**  
2 **EDUCATION**

3 **SEC. 701. TECHNICAL ASSISTANCE TO EMPLOYERS AND EM-**  
4 **PLOYEES.**

5 Section 21 (29 U.S.C. 670) is amended by adding  
6 at the end thereof the following new subsections:

7 “(d) The Secretary shall develop and dissemi-  
8 nate, directly or by grants or contracts, model cur-  
9 ricula, model programs and other information and  
10 materials to assist employers in complying with the  
11 requirements for safety and health programs and  
12 employee safety and health training and education  
13 under section 27, with the requirements for safety  
14 and health committees under section 28, with the re-  
15 quirements of section 5, including the requirements  
16 of standards issued under section 6, and other re-  
17 quirements of the Act.

18 “(e) The Secretary shall establish and implement a  
19 program to provide technical assistance and consultative  
20 services for employers and employees, either directly or  
21 through grants or contracts, concerning worksite safety  
22 and health and compliance with this Act. Such assistance  
23 and consultation shall be targeted at small employers, high  
24 hazard worksites, and high hazard industries.

1       “(f) The Secretary shall award grants for the estab-  
2       lishment and functioning of regional or State safety re-  
3       source councils or centers. Such councils or centers shall  
4       identify safety and health resources within the State or  
5       region that employers and employees can utilize—

6               “(1) to improve safety and health;

7               “(2) to assist with the development of industry-  
8       specific projects to promote safety and health; and

9               “(3) to assist employers and employees with the  
10      development of safety and health programs.

11      Such councils or centers shall be not-for-profit organiza-  
12      tions, and shall include representatives from State agen-  
13      cies, employers and labor organizations.

14      “(g) The Secretary shall establish a program under  
15      which the Secretary may annually recognize employers  
16      with outstanding safety and health records by presenting  
17      such employers with a safety and health excellence award.  
18      The Secretary may annually recognize other organizations  
19      through the presentation of such awards in recognition of  
20      the outstanding efforts of such organization to promote  
21      occupational safety and health.”

22      **SEC. 702. OSHA ASSISTANCE FUND.**

23      Section 7 (29 U.S.C. 656) is amended by adding at  
24      the end thereof the following new subsection:

1       “(d)(1) There is established in the Treasury of the  
2 United States a revolving fund to be known as the ‘OSHA  
3 Assistance Fund’ (hereinafter in this subsection referred  
4 to as the ‘Fund’). The Fund shall be used to offset the  
5 costs of implementing section 21 (including administrative  
6 and personnel expenses). Monies in the Fund shall be  
7 available without fiscal year limitation to the Secretary for  
8 such purpose.

9       “(2)(A) The Secretary is authorized to charge fees  
10 in accordance with this paragraph for technical assistance  
11 and consultative services provided under section 21. Such  
12 fees—

13               “(i) shall be imposed on a uniform basis on per-  
14 sons receiving such assistance or services under sec-  
15 tion 21;

16               “(ii) shall not exceed the cost of implementing  
17 section 21; and

18               “(iii) with respect to each person receiving such  
19 assistance or services, shall bear a reasonable rela-  
20 tionship to the cost of providing such assistance or  
21 services to such person.

22       “(B) Fees received by the Secretary under this sub-  
23 section shall be deposited in the Fund.

24       “(C) The Secretary shall report with respect to each  
25 fiscal year to the Congress on the operation of the Fund.

1       “(3) The Secretary of the Treasury shall invest the  
2       portion of the Fund not required to satisfy current ex-  
3       penditures from the Fund, as determined by the Sec-  
4       retary, in obligations of the United States or obligations  
5       guaranteed as to principal by the United States. Invest-  
6       ment proceeds shall be deposited in the Fund.”.

7       **TITLE VIII—RECORDKEEPING**  
8       **AND REPORTING**

9       **SEC. 801. DATA COLLECTED BY SECRETARY.**

10       Section 24(a) (29 U.S.C. 673) is amended—

11               (1) by designating the first through third sen-  
12       tences as paragraphs (1) through (3), respectively  
13       and margining such paragraphs accordingly; and

14               (2) by adding at the end the following new  
15       paragraphs:

16       “(4)(A) For the purpose of setting safety and health  
17       standards, targeting inspections to individual establish-  
18       ments, evaluating standard setting and enforcement pro-  
19       grams, and for other purposes, the Secretary shall collect  
20       such information as may be necessary and conduct analy-  
21       ses that identify—

22               “(i) industries, employers, establishments, proc-  
23       esses, operations, and occupations that have a high  
24       rate of injury or illness;

1           “(ii) factors that cause or contribute to injuries  
2           and illnesses;

3           “(iii) workers’ compensation and other costs as-  
4           sociated with the injuries and illnesses; and

5           “(iv) employee exposures to toxic substances  
6           and harmful physical agents.

7           “(B) Data collected under this subsection shall be  
8           publicly available in a form suitable for further statistical  
9           analysis.

10          “(5) The Secretary shall issue regulations that re-  
11          quire each employer covered by this Act to report to the  
12          Secretary each work-related death of an employee of the  
13          employer immediately upon knowledge of the employer  
14          and to report each serious incident that results in the hos-  
15          pitalization of two or more employees within 24 hours of  
16          the incident.”.

17       **SEC. 802. EMPLOYEE REPORTED ILLNESSES.**

18          Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by  
19          striking out “deaths, injuries, and illnesses other than”  
20          and inserting in lieu thereof “deaths, injuries, illnesses,  
21          suspected work-related illnesses reported by an employee  
22          or an employee’s physician unless the employer makes a  
23          reasonable determination that the illness is not work-relat-  
24          ed, and adverse medical conditions determined as a result  
25          of a medical examination or test conducted under an occu-



1 pational safety or health standard. Records and reports  
2 shall not be required for”.

3 **SEC. 803. EMPLOYEE ACCESS.**

4 Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by  
5 adding at the end the following new sentence: “The  
6 records and reports required under this section shall be  
7 made available to the Secretary, the Secretary of Health  
8 and Human Services, employees and employee representa-  
9 tives.”.

10 **TITLE IX—NIOSH**

11 **SEC. 901. HAZARD EVALUATION REPORTS.**

12 Section 20(a)(6) (29 U.S.C. 669(a)(6)) is amended—

13 (1) in the second sentence, by inserting “, or  
14 whether any potentially hazardous condition or  
15 harmful physical agent found in the place of employ-  
16 ment poses a risk to exposed employees” after “as  
17 used or found”; and

18 (2) by inserting after the second sentence the  
19 following new sentence: “If a determination is not  
20 made within 6 months of the request, the Secretary  
21 shall provide the employer and employees with an in-  
22 terim report on the known or suspected hazards, a  
23 recommendation for control, and an estimate of the  
24 time that a final determination will be made.”.

1 **SEC. 902. SAFETY RESEARCH.**

2 Section 20(a) (29 U.S.C. 669(a)) is amended by add-  
3 ing at the end the following new paragraph:

4 “(8) The Secretary of Health and Human Services  
5 shall identify major factors contributing to occupational  
6 injuries and deaths through accident investigations and  
7 epidemiological research.”.

8 **SEC. 903. CONTRACTOR RIGHTS.**

9 Section 20(b) (29 U.S.C. 669(b)) is amended in the  
10 first sentence by inserting after “Secretary of Health and  
11 Human Services” the following: “or the Secretary’s des-  
12 ignees or contractors.”.

13 **SEC. 904. NATIONAL SURVEILLANCE PROGRAM.**

14 Section 20 (29 U.S.C. 669) is amended by adding  
15 at the end thereof the following new subsection:

16 “(f)(1) Not later than 2 years after the date of enact-  
17 ment of the Comprehensive Occupational Safety and  
18 Health Reform Act, the Secretary of Health and Human  
19 Services, acting through the National Institute for Occu-  
20 pational Safety and Health, shall (in cooperation with  
21 other agencies of the Department of Health and Human  
22 Services and the Secretary of Labor) establish a national  
23 surveillance program to identify cases of occupational ill-  
24 nesses, deaths, and serious injuries. In conducting the na-  
25 tional surveillance program, the Secretary of Health and  
26 Human Services shall coordinate the activities of the Sec-

1 retary with State health agencies and Federal and State  
2 workers' compensation agencies.

3       “(2)(A) The Secretary of Health and Human Serv-  
4 ices shall collect data each year on the number and charac-  
5 teristics of all occupational deaths, selected occupational  
6 illnesses, and selected occupational injuries.

7       “(B) In selecting occupational illnesses and injuries  
8 for the collection of data under subparagraph (A), the Sec-  
9 retary of Health and Human Services shall consider the  
10 known frequency of the disorder, the severity of the dis-  
11 order, and the size of the population at risk.

12       “(3) The Secretary of Health and Human Services  
13 shall prepare reports and analysis of deaths, occupational  
14 illnesses, and injuries collected under the national surveil-  
15 lance program and transmit the information to the Sec-  
16 retary of Labor, State health agencies, employers, employ-  
17 ees, and other interested parties.

18       “(4) The Secretary of Health and Human Services  
19 may issue regulations to require an employer, through a  
20 physician or other health professional employed by or  
21 under contract to the employer, to report information on  
22 occupational deaths, illnesses and injuries in order to  
23 carry out the provisions of this subsection.”.

1 **SEC. 905. ESTABLISHMENT OF NIOSH AS A SEPARATE**  
 2 **AGENCY WITHIN PUBLIC HEALTH SERVICE.**

3 The second sentence of section 22(b) (29 U.S.C.  
 4 671(b)) is amended by inserting after “The Institute shall  
 5 be” the following: “established as a separate agency within  
 6 the United States Public Health Service and be”.

7 **SEC. 906. NIOSH TRAINING.**

8 Section 21(a) (29 U.S.C. 670(a)) is amended by in-  
 9 serting after “educational programs to provide an ade-  
 10 quate supply of qualified personnel to carry out the pur-  
 11 pose of this Act,” the following: “, including education  
 12 programs for employees and member of safety and health  
 13 committees, as appropriate.”.

14 **TITLE X—STATE PLANS**

15 **SEC. 1001. STATE PLAN COMMITTEES AND PROGRAMS.**

16 Section 18(c) (29 U.S.C. 667(c)) is amended—

17 (1) by striking “and” at the end of paragraph  
 18 (7);

19 (2) by striking the period at the end of para-  
 20 graph (8) and inserting a comma; and

21 (3) by adding at the end the following new  
 22 paragraph:

23 “(9) provides for the development of safety and  
 24 health programs, safety and health committees and  
 25 training programs that are at least as effective as  
 26 those required under sections 27 and 28, and”.

1 **SEC. 1002. ACCESS TO INFORMATION; EMPLOYEE RIGHTS.**

2 Section 18(c) (29 U.S.C. 667(c)) (as amended by sec-  
3 tion 1001) is further amended by adding at the end there-  
4 of the following new paragraph:

5 “(10) provides for reporting requirements, pro-  
6 tection of employee rights, and access to information  
7 that are at least as effective as those required under  
8 this Act or other Federal laws which govern access  
9 to information related to this Act.”.

10 **SEC. 1003. APPLICATION OF FEDERAL STANDARDS.**

11 Section 18 (29 U.S.C. 667) is amended by adding  
12 at the end thereof the following new subsection:

13 “(i) In the event a State, within 6 months after the  
14 promulgation of a safety and health standard by the Sec-  
15 retary under section 6, fails to adopt or promulgate a  
16 standard which is at least as effective as the Secretary’s  
17 standard, the State shall enforce the Secretary’s standard  
18 until a State standard which is at least as effective as such  
19 standard is in effect.”.

20 **SEC. 1004. COMPLAINTS AGAINST A STATE PLAN.**

21 Section 18 (29 U.S.C. 667) (as amended by section  
22 1003) is further amended—

23 (1) in the third sentence of subsection (e), by  
24 inserting after “preceding sentence” the following:  
25 “except as provided in subsections (f) and (j)”; and

1           (2) by adding at the end the following new sub-  
2       section:

3       “(j)(1) If the Secretary receives a written complaint  
4       from an employer, employee, or employee representative  
5       that a State is deficient in its compliance with a provision  
6       of its State plan and the Secretary determines that there  
7       are reasonable grounds to believe that such deficiency ex-  
8       ists, the Secretary shall promptly investigate any such  
9       complaint, except that complaints which allege a deficiency  
10      in an enforcement action by a State shall be investigated  
11      within 30 days of the receipt of the complaint.

12      “(2) The Secretary shall, not later than 30 days after  
13      the completion of any investigation, transmit the findings  
14      in writing to the State and to the complainant, which find-  
15      ings shall include recommendations for the correction of  
16      any deficiency which is identified. If the Secretary deter-  
17      mines there are no reasonable grounds to believe that a  
18      deficiency exists, the Secretary shall notify the complain-  
19      ant in writing of such determination.

20      “(3) Not later than 30 days after the receipt of find-  
21      ings issued under paragraph (2), the State shall respond  
22      to the Secretary in writing, describing what action the  
23      State has taken in response to the Secretary’s findings  
24      and recommendations.

1       “(4) If after receipt of the response of the State, the  
2 Secretary believes a serious violation of the Act exists for  
3 which the State has failed to issue a citation, the Secretary  
4 with reasonable promptness shall issue a citation. Section  
5 9(e) shall not apply with respect to a citation issued under  
6 this paragraph.”.

7 **SEC. 1005. ACTION AGAINST A STATE PLAN.**

8       Section 18(f) (29 U.S.C. 667(f)) is amended—

9           (1) by designating the first sentence as para-  
10 graph (1);

11          (2) by redesignating the second sentence as  
12 paragraph (3);

13          (3) by margining such paragraphs accordingly;  
14 and

15          (4) by inserting after paragraph (1) (as so des-  
16 ignated) the following new paragraph:

17       “(2)(A) If the Secretary determines at any time that  
18 there are reasonable grounds for concluding that there is  
19 a failure to comply substantially with any provision of the  
20 State plan (or any assurance contained therein), the Sec-  
21 retary shall give notice to the State of the deficiencies  
22 which, in the Secretary’s view, warrant a withdrawal of  
23 approval, and shall allow 6 months for the correction of  
24 the deficiencies.

1       “(B) If after 6 months the Secretary determines that  
2 the State has not corrected the deficiencies and that  
3 grounds for withdrawing approval of the State plan still  
4 exist, the Secretary shall institute proceedings pursuant  
5 to paragraph (3) for the withdrawal of approval of the  
6 plan, unless the Secretary determines in writing that ex-  
7 ceptional circumstances exist that justify a decision not  
8 to institute such proceedings.

9       “(C) During the pendency of proceedings pursuant  
10 to paragraph (3), the Secretary shall exercise jurisdiction,  
11 concurrent with the State, over the safety and health is-  
12 sues that are subject to the State plan.”.

13 **SEC. 1006. STATE PLAN CONFORMING AMENDMENTS.**

14       Section 18 (29 U.S.C. 667) (as amended by section  
15 1004(2)) is further amended by adding at the end thereof  
16 the following new subsection:

17       “(k)(1) Except as provided in paragraph (2), each  
18 State which is exercising authority to operate a State safe-  
19 ty and health plan under this section shall within 1 year  
20 of the effective date of the Comprehensive Occupational  
21 Safety and Health Reform Act modify the plan to conform  
22 with the requirements of this Act.

23       “(2) In the case of a State which the Secretary identi-  
24 fies as—



1           “(A) requiring State legislation (other than leg-  
2           islation appropriating funds) to modify the State  
3           safety and health plan to conform with the require-  
4           ments of this Act; and

5           “(B) having a legislature which is not scheduled  
6           to meet within 1 year of the effective date of the  
7           Comprehensive Occupational Safety and Health Re-  
8           form Act in legislative session in which such legisla-  
9           tion may be considered;

10 the State shall modify the plan to conform with the re-  
11 quirements of this Act within 1 year or by the first day  
12 of the first calendar quarter beginning after the close of  
13 the first legislative session of the State legislature that be-  
14 gins after the effective date of the Comprehensive Occupa-  
15 tional Safety and Health Reform Act, whichever is later.  
16 For purposes of the previous sentence, in the case of a  
17 State that has a 2-year legislative session, each year of  
18 such session shall be deemed to be a separate session of  
19 the State legislature.”.

20 **SEC. 1007. EFFECT ON STATE LAW.**

21           Section 18 (29 U.S.C. 667) (as amended by section  
22 1006) is further amended by adding at the end thereof  
23 the following new subsection:

24           “(l) Nothing in this section shall be construed to pre-  
25 vent any State from enacting or enforcing State public

1 safety or health laws which are not limited to providing  
 2 safe and healthful employment or places of employment,  
 3 including laws that regulate employees or places of em-  
 4 ployment as a means of protecting the health and safety  
 5 of nonemployee members of the public as well as of em-  
 6 ployees, such as those that license individuals to perform  
 7 particular types of work.”.

## 8 **TITLE XI—VICTIMS’ RIGHTS**

### 9 **SEC. 1101. VICTIMS’ RIGHTS.**

10 Section 29 is amended to read as follows:

#### 11 **“SEC. 29. VICTIMS’ RIGHTS.**

12 “(a) DEFINITION.—For purposes of this section, the  
 13 term ‘victim’ means—

14 “(1) an employee who has sustained a work-re-  
 15 lated injury or illness which is the subject of an in-  
 16 spection or investigation conducted under section 8,  
 17 or

18 “(2) a family member of an employee, if—

19 “(A) the employee is killed as a result of  
 20 a work-related injury or illness which is the  
 21 subject of an inspection or investigation con-  
 22 ducted under section 8; or

23 “(B) the employee sustains a work-related  
 24 injury which is the subject of an inspection or  
 25 investigation conducted under section 8, and

1           the employee cannot reasonably exercise his or  
2           her rights under this section.

3           “(b) RIGHTS.—On request, a victim shall be afforded  
4 the right, with respect to a work-related injury, illness,  
5 or death involving the employee, to—

6           “(1) meet with the Secretary, or an authorized  
7 representative of the Secretary, regarding the in-  
8 spection or investigation conducted under section 8  
9 concerning the employee’s injury, illness, or death  
10 before the Secretary’s decision to issue a citation or  
11 take no action; and

12           “(2) receive, at no cost, a copy of any citation  
13 or report, issued as a result of such inspection or in-  
14 vestigation on the date the citation or report is is-  
15 sued, be informed of any notice of contest filed  
16 under section 10, and be provided an explanation of  
17 the rights of employee and employee representatives  
18 to participate in proceedings conducted under sec-  
19 tion 10.

20           “(c) MODIFICATION OF CITATION.—Before entering  
21 into an agreement to withdraw or modify a citation issued  
22 as a result of an inspection or investigation of a death  
23 or serious incident under section 8, the Secretary, on re-  
24 quest, shall provide an opportunity to the victim to appear

1 and make a statement before the parties conducting settle-  
 2 ment negotiations.

3 “(d) NOTIFICATION AND REVIEW.—The Secretary  
 4 shall establish procedures—

5 “(1) to inform victims of their rights under this  
 6 section; and

7 “(2) for the informal review of any claim of a  
 8 denial of such rights.”.

## 9 **TITLE XII—CONSTRUCTION** 10 **SAFETY**

### 11 **SEC 1201. SHORT TITLE.**

12 This title may be cited as the “Construction Safety,  
 13 Health, and Education Improvement Act of 1993”.

### 14 **SEC. 1202. DEFINITIONS.**

15 Section 3 (29 U.S.C. 652) (as amended by section  
 16 512(b)) is further amended by adding at the end thereof  
 17 the following new paragraph:

18 “(16) For purposes of section 7(c), subsections  
 19 (j) through (l) of section 8, and sections 30 and 31:

20 “(A) The term ‘construction employer’  
 21 means an employer as defined in paragraph (5)  
 22 (including an employer who has no employees)  
 23 who is engaged primarily in the building and  
 24 construction industry or who performs construc-  
 25 tion work under a contract with a construction

1 owner, except that a utility providing or receiv-  
2 ing mutual assistance in the case of a natural  
3 or man-made disaster shall not be considered a  
4 construction employer.

5 “(B) The term ‘construction owner’ means  
6 a person who owns, leases or has effective con-  
7 trol over property with or without improve-  
8 ments, a structure, or other improvement on  
9 real property on which construction work is  
10 being, or will be, performed.

11 “(C) The term ‘construction project’  
12 means all construction work by one or more  
13 construction employers which is performed for a  
14 construction owner and which is described in  
15 work orders, permits, requisitions, agreements,  
16 and other project documents.

17 “(D) The term ‘construction work’ means  
18 work for construction, alteration, demolition, or  
19 repair, or any combination thereof, including  
20 painting and decorating, but does not include  
21 work performed under a contract between a  
22 construction employer and a homeowner for  
23 work on the homeowner’s own residence, or rou-  
24 tine maintenance and upkeep performed at least  
25 monthly, and such term shall include work per-

1           formed under a contract between a construction  
 2           employer and an agency of the United States or  
 3           any State or political subdivision of a State.

4           “(E) The term ‘construction worksite’  
 5           means a site within a construction project  
 6           where construction work is performed by one or  
 7           more construction employers.

8           “(F) The term ‘competent person’ means a  
 9           representative of a construction employer who  
 10          satisfies the requirements of section 27(b)(8).”.

11 **SEC. 1203. OFFICE OF CONSTRUCTION SAFETY, HEALTH,**  
 12 **AND EDUCATION.**

13          The Occupational Safety and Health Act of 1970 (29  
 14 U.S.C. 651 et seq.) is amended—

15           (1) by striking out sections 30, 31 and 34;

16           (2) by redesignating sections 32 through 33 as  
 17          section 34 and 35, respectively; and

18           (2) by inserting after section 29 the following  
 19          new section:

20 **“SEC. 30. OFFICE OF CONSTRUCTION SAFETY, HEALTH,**  
 21 **AND EDUCATION.**

22          “(a) ESTABLISHMENT.—There is established in the  
 23 Occupational Safety and Health Administration an Office  
 24 of Construction Safety, Health, and Education (herein-  
 25 after in this section referred to as the ‘Office’) to ensure

1 safe and healthful working conditions in the performance  
2 of construction work.

3 “(b) DUTIES.—The Secretary shall—

4 “(1) identify construction employers that have  
5 high fatality rates or high lost workday injury or ill-  
6 ness rates or who have demonstrated a pattern of  
7 noncompliance with safety and health standards,  
8 rules, and regulations;

9 “(2) develop a system for notification of em-  
10 ployers identified under paragraph (1);

11 “(3) establish, after consultation with the Advi-  
12 sory Committee on Construction Safety and Health,  
13 training courses and curriculum for the training of  
14 inspectors and other persons with duties related to  
15 construction safety and health who are employed by  
16 the Occupational Safety and Health Administration;

17 “(4) establish model compliance programs for  
18 construction safety and health standards and assist  
19 employers, employees, and organizations represent-  
20 ing employers and employees in establishing training  
21 programs appropriate to such standards; and

22 “(5) establish a toll-free line on which reports,  
23 complaints, and notifications required under this Act  
24 may be made.

25 “(c) PERSONNEL.—

1           “(1) DEPUTY ASSISTANT SECRETARY FOR CON-  
2       STRUCTION.—The Office shall be headed by a Dep-  
3       uty Assistant Secretary of Labor for Construction,  
4       appointed by the Secretary. The Deputy Assistant  
5       Secretary shall coordinate the activities of the Office  
6       and the Advisory Committee on Construction Safety  
7       and Health with the activities of other offices and  
8       directorates within the Occupational Safety and  
9       Health Administration to the extent that the activi-  
10      ties of those other offices and directorates relate to  
11      safety, health, and education in the construction in-  
12      dustry.

13           “(2) QUALIFICATIONS OF INSPECTORS.—The  
14      Secretary, with the advice of the Advisory Commit-  
15      tee on Construction Safety and Health, shall deter-  
16      mine the necessary qualifications and training re-  
17      quirements for individuals employed by the Occupa-  
18      tional Safety and Health Administration whose re-  
19      sponsibilities include the inspection of construction  
20      worksites. Such qualifications and requirements  
21      shall, at a minimum, include—

22           “(A) a requirement that the inspector,  
23           after receiving appropriate training, have a full  
24           understanding of this Act and the Secretary’s



1 standards and regulations applicable to con-  
2 struction work; and

3 “(B) in the case of a construction safety  
4 inspector, at least 5 years of experience working  
5 in the construction industry.”.

6 **SEC. 1204. CONSTRUCTION SAFETY AND HEALTH PLANS**  
7 **AND PROGRAMS.**

8 The Occupational Safety and Health Act of 1970 (29  
9 U.S.C. 651 et seq.) (as amended by section 1203) is fur-  
10 ther amended by adding after section 30 the following new  
11 section:

12 **“SEC. 31. CONSTRUCTION SAFETY AND HEALTH PLANS AND**  
13 **PROGRAMS.**

14 “(a) PROJECT CONSTRUCTOR.—The Secretary shall,  
15 by regulation, require each construction project to have  
16 an individual or entity (hereinafter referred to as the  
17 ‘project constructor’) that is responsible for the establish-  
18 ment of the safety and health plan for such project and  
19 for ensuring that the project safety coordinator exercises  
20 the duties set forth in this Act. Such regulations shall re-  
21 quire that—

22 “(1) if only one general or prime contractor ex-  
23 ists on a construction project, such contractor shall  
24 be the project constructor, unless such contractor

1 designates another entity with its consent to be the  
2 project constructor; and

3 “(2) if a construction project has more than  
4 one general or prime contractor, the construction  
5 owner shall be the project constructor unless such  
6 construction owner designates another entity with its  
7 consent to be the project constructor.

8 “(b) CONSTRUCTION SAFETY AND HEALTH PLAN.—

9 “(1) IN GENERAL.—The Secretary shall, by  
10 regulation, require that the project constructor for a  
11 construction project develop and implement a writ-  
12 ten construction safety and health plan for the con-  
13 struction project (hereinafter in this section referred  
14 to as the ‘plan’) to protect employees against haz-  
15 ards which may occur at such project.

16 “(2) REQUIREMENTS.—The regulations under  
17 paragraph (1) shall, at a minimum, require that the  
18 plan shall include a hazard analysis and construction  
19 process protocol which shall apply to each worksite  
20 of the project. The analysis and protocol shall in-  
21 clude a specific reference to critical conditions in the  
22 construction process which may cause hazards to  
23 exist, identify the methods to be used at such work-  
24 site to ensure the structural stability of all buildings,  
25 structures, and excavations, and list all inspections

1 and tests required at such worksite to protect the  
2 safety and health of employees.

3 “(3) AVAILABILITY.—Copies of the plan shall  
4 be made available to each construction employer  
5 prior to commencement of construction work by that  
6 employer.

7 “(c) PROJECT SAFETY COORDINATOR.—

8 “(1) IN GENERAL.—The Secretary shall, by  
9 regulation, require that for every construction  
10 project, the project constructor shall designate a  
11 project safety coordinator appointed by and acting  
12 on behalf of the project constructor. Such regula-  
13 tions shall, at a minimum, require the following:

14 “(A) The project safety coordinator shall,  
15 on behalf of the project constructor—

16 “(i) ensure the implementation of the  
17 plan;

18 “(ii) ensure that each construction  
19 employer on the project has a safety and  
20 health program which complies with the  
21 plan and the requirements of subsection  
22 (d);

23 “(iii) conduct regular inspections of  
24 the worksite to monitor compliance by em-

1           employers with the plan and with their safety  
2           and health programs;

3           “(iv) notify affected construction em-  
4           ployers of any hazardous conditions discov-  
5           ered at a construction worksite or of non-  
6           compliance by an employer with the project  
7           safety and health plan, or the employer’s  
8           own safety and health plan; and

9           “(v) if the hazard or noncompliance is  
10          not corrected, notify the construction  
11          owner and the project constructor.

12          “(B) The project safety coordinator shall  
13          issue written approval before an employer may  
14          engage in an operation of a type determined by  
15          the Secretary to pose a substantial risk of death  
16          or serious bodily injury.

17          “(C) The project safety coordinator shall—

18               “(i) upon request of any construction  
19               employer, employee, or employee represent-  
20               ative, conduct an inspection at a construc-  
21               tion worksite to determine if an imminent  
22               danger exists and shall stop work at, or re-  
23               move affected employees from, an area in  
24               which such a danger exists;

1           “(ii) investigate each fatality, serious  
2           bodily injury, structural failure, fire, or ex-  
3           plosion that occurs on the project; and

4           “(iii) notify the Secretary if a con-  
5           struction employer fails promptly to abate  
6           an imminent danger, and request the Sec-  
7           retary to conduct an immediate inspection  
8           of the worksite.

9           “(D) The project safety coordinator shall  
10          be on site as necessary and be promptly avail-  
11          able at all times that work is being performed  
12          on the project.

13          “(2) QUALIFICATIONS.—The project safety co-  
14          ordinator shall be an individual who is certified by  
15          an organization or organizations approved by the  
16          Secretary as having fulfilled the requirements of a  
17          standardized training course and testing program  
18          developed or approved by the Secretary with the ad-  
19          vice of the Advisory Committee on Construction  
20          Safety and Health. Until the Secretary develops  
21          such approved procedures, the project safety coordi-  
22          nator shall meet the requirements of a competent  
23          person under subsection (e).

24          “(d) CONSTRUCTION SAFETY AND HEALTH PRO-  
25          GRAMS.—The Secretary shall, by regulation, require every

1 construction employer on a construction project to have  
2 a written safety and health program established in accord-  
3 ance with section 27 applicable to the employer's work on  
4 such project. The Secretary's regulations shall, in addition  
5 to the requirements under section 27(b), at a minimum,  
6 require the following:

7           “(1) The program shall provide for safety and  
8 health meetings to review the safety and health pro-  
9 gram to be conducted with construction employees  
10 during working hours prior to the commencement of  
11 the employer's work on the project. Thereafter, safe-  
12 ty and health meetings shall be held at least monthly  
13 to provide updated information to employees on the  
14 construction process and the hazards associated with  
15 those processes. A safety and health meeting shall be  
16 held with newly hired employees and with those em-  
17 ployees assigned to construction work with which  
18 they are unfamiliar before such work commences.

19           “(2) The program shall contain procedures for  
20 the emergency evacuation of the employer's employ-  
21 ees from a construction worksite.

22           “(3) The program shall contain procedures to  
23 ensure that a competent person is on the construc-  
24 tion worksite at all times that work is being per-  
25 formed by such employer.

1           “(4) The program shall contain procedures to  
2       ensure that all construction employees of the em-  
3       ployer shall receive or have received within the 12-  
4       month period immediately preceding their employ-  
5       ment, general safety and health training in a man-  
6       ner prescribed by the Secretary. The Secretary shall  
7       prescribe a procedure or procedures by which an em-  
8       ployer may verify that employees have received the  
9       required training.

10           “(5) The program shall indicate if the employer  
11       has received notification under section 30(b)(2).

12       “(e) COMPETENT PERSONS.—The Secretary shall, by  
13       regulation, require each construction employer to des-  
14       ignate one or more competent persons, in accordance with  
15       section 27(b)(8), who shall be responsible for the adminis-  
16       tration of the safety and health program. Such regulations  
17       shall, at a minimum, require the following:

18           “(1) A competent person shall be on the con-  
19       struction worksite at all times that work is being  
20       performed by such employer.

21           “(2) A competent person shall engage in inspec-  
22       tions of the site, materials, and equipment, as appro-  
23       priate, and shall stop work of such employer at, or  
24       remove affected employees of the employer from, an  
25       area in which an imminent danger exists. The com-

1       petent person shall notify forthwith the project con-  
2       structor or project safety coordinator of the immi-  
3       nent danger and of the action taken to ensure the  
4       prompt abatement of such danger and to prevent its  
5       recurrence.

6       “(f) APPLICATION.—

7               “(1) IN GENERAL.—The Secretary, by regula-  
8       tion, may modify the requirements of subsections (a)  
9       through (e), or portions thereof, as they apply to  
10      certain types of construction work or operations  
11      where the Secretary determines that, in light of the  
12      nature of the risks faced by employees engaged in  
13      such work or operation, such a modification would  
14      not reduce the employees’ safety and health protec-  
15      tion. In making such modifications, the Secretary  
16      shall take into account the risk of death or serious  
17      injury or illness, and the frequency of fatalities and  
18      the lost work day injury rate attendant to such work  
19      or operations.

20              “(2) EMERGENCY WORK.—If it is necessary to  
21      perform construction work on a worksite imme-  
22      diately in order to prevent injury to persons, or sub-  
23      stantial damage to property, and such work must be  
24      conducted before compliance with the requirements  
25      of the regulations under subsections (a) through (e)



1 can be made, the Secretary shall be given notice as  
2 soon as practicable of such work. Compliance with  
3 such requirements shall then be made as soon as  
4 practicable thereafter.”

5 **SEC. 1205. INSPECTIONS, INVESTIGATIONS, REPORTING,**  
6 **AND RECORDKEEPING.**

7 Section 8 (29 U.S.C. 657) (as amended by sections  
8 504 and 505) is further amended by adding at the end  
9 thereof the following new subsections:

10 “(j)(1) The Secretary shall establish an effective  
11 targeting system for general schedule construction inspec-  
12 tions. In establishing such system, the Secretary shall es-  
13 tablish priorities to ensure that construction enforcement  
14 activities are concentrated on construction work and con-  
15 struction projects having a high potential for deaths, inju-  
16 ries or illnesses and, within such construction projects, on  
17 worksites or operations having a high potential for deaths,  
18 injuries or illnesses.

19 “(2) In establishing construction inspection priorities  
20 under paragraph (1), the Secretary shall give due weight  
21 to—

22 “(A) the record of compliance with this Act and  
23 its regulations by particular construction employers;  
24 and

1           “(B) the fatality rate and the lost workday in-  
2       jury rate attributable to particular construction own-  
3       ers and construction employers and particular types  
4       of construction projects and construction work.

5       “(3) The Secretary shall use reports and notices filed  
6       under this subsection and subsection (i) and other perti-  
7       nent information to develop the system of prioritized in-  
8       spections required under this subsection.

9       “(4) The inspection priority system required by para-  
10      graph (1) shall not have the effect of limiting the Sec-  
11      retary’s authority to conduct inspections of any employer  
12      or worksite under other provisions of this Act.

13      “(5) The Secretary shall, by regulation, require that,  
14      before the commencement of (A) specific, highly hazard-  
15      ous construction work, or (B) work by employers identified  
16      under section 30(b)(1), the project constructor shall re-  
17      port to the Secretary information regarding the project to  
18      allow the Secretary, on the basis of the inspection priority  
19      system required by paragraph (1), to determine whether  
20      to conduct an inspection of such project or of a worksite  
21      or worksites on such project. Such regulations shall re-  
22      quire, at a minimum, that the information reported in-  
23      clude the location of the project or worksite, the names  
24      of the construction owner, project constructor, project  
25      safety coordinator, and construction employers working on

1 the project, the type of work to be performed, and the  
2 anticipated dates of such construction activities.

3 “(k)(1) The Secretary shall, by regulation, require  
4 that the project constructor of a construction project  
5 promptly report to the Secretary any incident involving  
6 construction work that results in—

7 “(A) a fatality;

8 “(B) an injury or illness causing 2 or more hos-  
9 pitalizations; or

10 “(C) a structural failure or fire or explosion  
11 which caused or could have caused serious bodily in-  
12 jury to an employee.

13 “(2) The Secretary’s regulations shall provide at a  
14 minimum that each report required under paragraph (1)  
15 shall contain the names, business addresses, and telephone  
16 numbers of the construction owner of the worksite, the  
17 project constructor and project safety coordinator, and the  
18 construction employer whose construction employee was  
19 killed or seriously injured.

20 “(3) The Secretary shall investigate any incident re-  
21 ported pursuant to paragraph (1).

22 “(l) The Secretary shall, by regulation, require  
23 project constructors to make and maintain accurate  
24 records concerning fatalities, serious bodily injuries, struc-

1 tural failures, fires, and explosions at construction  
2 projects.”.

3 **SEC. 1206. ADVISORY COMMITTEE ON CONSTRUCTION**  
4 **SAFETY AND HEALTH.**

5 Section 7 (29 U.S.C. 656) is amended—

6 (1) by redesignating subsections (c) and (d) (as  
7 added by section 702) as subsections (e) and (f), re-  
8 spectively; and

9 (2) by inserting after subsection (b) the follow-  
10 ing new subsections:

11 “(c)(1) The Advisory Committee on Construction  
12 Safety and Health established by the Secretary pursuant  
13 to section 107(e) of the Contract Work Hours and Safety  
14 Standards Act (40 U.S.C. 333(e)), shall be composed of  
15 15 members, as follows:

16 “(A) One member shall be designated by the  
17 Secretary of Health and Human Services.

18 “(B) Five members, appointed by the Sec-  
19 retary, shall be qualified by experience and affili-  
20 ation with construction employer and employer asso-  
21 ciations to present the viewpoint of the employers in-  
22 volved and five members, appointed by the Sec-  
23 retary, shall be qualified by experience and affili-  
24 ation with labor organizations in the building and

1 construction industry to present the viewpoint of em-  
2 ployees involved.

3 “(C) Two members, appointed by the Secretary,  
4 shall be representatives of State safety and health  
5 agencies.

6 “(D) Two members, appointed by the Sec-  
7 retary, shall be qualified by knowledge and experi-  
8 ence to be able to make useful contribution to the  
9 work of the Advisory Committee.

10 “(2) The term of office of each member shall be 3  
11 years. The terms of five members shall expire each year,  
12 provided that the terms of no more than two representa-  
13 tives of the same interest shall expire the same year. A  
14 member whose term has expired shall continue to serve  
15 until a successor is appointed unless such member resigns  
16 or becomes unable to serve.

17 “(d)(1) In addition to the functions prescribed by sec-  
18 tion 107(e) of the Contract Work Hours and Safety  
19 Standards Act (40 U.S.C. 333(e)), the Advisory Commit-  
20 tee on Construction Safety and Health shall also serve as  
21 an advisory committee to the Secretary and the Secretary  
22 of Health and Human Services on matters relating to the  
23 administration of the Act. The Committee shall advise,  
24 consult with, and make recommendations to the Secretary  
25 and the Secretary of Health and Human Services in the

1 formulation of construction safety and health standards  
2 and other regulations and with respect to policy matters  
3 arising in the administration of this Act as it affects the  
4 construction industry. In carrying out its functions, the  
5 Advisory Committee may—

6           “(A) with the consent of the Secretary, obtain  
7       special advisory and technical experts or consultants  
8       as may be necessary to carry out the functions of  
9       the Advisory Committee;

10           “(B) establish working groups to address mat-  
11       ters coming before the Committee during times the  
12       Committee is not in session;

13           “(C) schedule no fewer than four meetings dur-  
14       ing each calendar year and require a transcript to  
15       be kept of the meetings and to be made available for  
16       public inspection; and

17           “(D) consider such matters as it may determine  
18       to be appropriate, in addition to those matters re-  
19       ferred by the Secretary.

20           “(2) The Secretary shall respond in writing to any  
21       recommendations made by a majority of the members of  
22       the Advisory Committee within 60 days of the Advisory  
23       Committee’s issuance of such recommendation.”.

1 **SEC. 1207. STATE CONSTRUCTION SAFETY AND HEALTH**  
2 **PLANS.**

3 Section 18 (29 U.S.C. 667) (as amended by sections  
4 1003, 1004 and 1006) is further amended by adding at  
5 the end thereof the following new subsection:

6 “(l) Any State plan that covers construction safety  
7 and health shall contain requirements which, and the en-  
8 forcement of which, are, and will be, at least as effective,  
9 in providing safe and healthful employment and places of  
10 employment in the construction industry as the require-  
11 ments contained in subsection (c), and the requirements  
12 imposed by, and enforced under, this Act and section 107  
13 of the Contract Work Hours Standards Act (40 U.S.C.  
14 333), including—

15 “(1) requirements relating to the training and  
16 qualifications of State agency construction inspec-  
17 tors;

18 “(2) requirements relating to construction safe-  
19 ty and health plans and programs; and

20 “(3) requirements relating to inspections, inves-  
21 tigations, reporting, and recordkeeping.”.

22 **SEC. 1208. CONSTRUCTION SAFETY AND HEALTH ACADEMY.**

23 The Occupational Safety and Health Act of 1970 (29  
24 U.S.C. 651 et seq.) (as amended by section 1204) is fur-  
25 ther amended by inserting after section 31 the following  
26 new section:

1 **“SEC. 32. CONSTRUCTION SAFETY AND HEALTH ACADEMY.**

2 “There is established in the Occupational Safety and  
3 Health Administration a Construction Safety and Health  
4 Academy to conduct training of employees of the Occupa-  
5 tional Safety and Health Administration who conduct in-  
6 spections of construction worksites and such other persons  
7 as the Secretary, with the advice of the Advisory Commit-  
8 tee on Construction Safety and Health, shall consider ap-  
9 propriate.”

10 **SEC. 1209. ENFORCEMENT.**

11 (a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is  
12 amended by inserting “, 8, or 31” after “section 5”.

13 (b) PROJECT CONSTRUCTORS.—Section 9 (29 U.S.C.  
14 658) (as amended by section 514) is further amended by  
15 adding at the end the following:

16 “(f) For purposes of this section and sections 8, 10,  
17 11, and 17 a project constructor shall be considered an  
18 employer.”.

19 **SEC. 1210. REPORTS TO CONGRESS.**

20 The Occupational Safety and Health Act of 1970 (29  
21 U.S.C. 651 et seq.) (as amended by section 1208) is fur-  
22 ther amended by adding after section 32 the following new  
23 section:

24 **“SEC. 33. REPORTS TO CONGRESS.**

25 “(a) IN GENERAL.—The Secretary, in consultation  
26 with the Advisory Committee on Construction Safety and



1 Health, shall prepare and submit to the President for  
2 transmittal to the Congress an annual report upon the  
3 same general subjects as are set forth in section 26 and  
4 as they relate to the construction industry, including the  
5 operation of the Office of Construction Safety, Health,  
6 and Education.

7       “(b) EFFECT OF EXISTING CONDITIONS IN CON-  
8 STRUCTION INDUSTRY.—Within 120 days following the  
9 conclusion of 3 years of operation of the Office of Con-  
10 struction Safety, Health, and Education, the Secretary,  
11 with the advice and assistance of the Advisory Committee  
12 on Construction Safety and Health, shall prepare and sub-  
13 mit to the President for transmittal to the Congress a re-  
14 port upon the subject whether the then existing conditions  
15 of occupational safety and health in the construction in-  
16 dustry, the effectiveness of regulation and enforcement,  
17 and any other relevant information supports the continued  
18 existence of the Office within the Occupational Safety and  
19 Health Administration, or the enactment of legislation to  
20 establish in the Department of Labor a Construction In-  
21 dustry Safety and Health Administration to be headed by  
22 an Assistant Secretary of Labor for Construction Safety  
23 and Health, or the enactment of legislation making any  
24 other changes in the law.”.

1 **SEC. 1211. FEDERAL CONSTRUCTION CONTRACTS.**

2       The Occupational Safety and Health Act of 1970 (29  
3 U.S.C. 651 et seq.) (as amended by section 1210) is fur-  
4 ther amended by adding after section 33 the following new  
5 section:

6 **“SEC. 34. FEDERAL CONSTRUCTION CONTRACTS.**

7       “Not later than 90 days after the date of the enact-  
8 ment of this section, the Secretary shall deliver to the  
9 Committee on Education and Labor of the House of Rep-  
10 resentatives and the Committee on Labor and Human Re-  
11 sources of the Senate recommendations regarding legisla-  
12 tive changes required to make the safety records (includ-  
13 ing records of compliance with Federal safety and health  
14 laws and regulations) of persons bidding for contracts sub-  
15 ject to section 107 of the Contract Work Hours and Safety  
16 Standards Act (40 U.S.C. 333) a criterion to be consid-  
17 ered in the awarding of such contracts.”.

18 **SEC. 1212. RELATIONSHIP TO EXISTING LAW AND REGULA-**  
19 **TIONS.**

20       (a) IN GENERAL.—Nothing contained in the amend-  
21 ments made by this title or the regulations issued to carry  
22 out the amendments shall limit the application of, or less-  
23 en, any of the requirements of the Occupational Safety  
24 and Health Act of 1970 (29 U.S.C. 651 et seq.), the Con-  
25 tract Work Hours Standards Act (40 U.S.C. 327 et seq.),

1 or the standards or regulations issued by the Secretary  
2 of Labor to carry out either such Act.

3 (b) PROJECT CONSTRUCTORS.—The presence and  
4 duties of a project constructor or a project safety coordi-  
5 nator on a project shall not in any way diminish the re-  
6 sponsibilities of construction employers under the Occupa-  
7 tional Safety and Health Act of 1970 (29 U.S.C. 651 et  
8 seq.) for the safety and health of their employees.

9 **SEC. 1213. TIMETABLE FOR REGULATIONS.**

10 The Secretary of Labor shall publish in the Federal  
11 Register in proposed form, no later than 90 days after  
12 the effective date of this Act, the regulations that this title  
13 directs the Secretary to prescribe, and shall promulgate  
14 the final regulations no later than 180 days after the effec-  
15 tive date of this title. The final rules and regulations shall  
16 become effective 60 days after the date on which they are  
17 promulgated.

18 **TITLE XIII—ADMINISTRATION**

19 **SEC. 1301. ADMINISTRATION.**

20 There is established in the Department of Labor an  
21 Occupational Safety and Health Administration to be  
22 headed by an Assistant Secretary of Labor for Occupa-  
23 tional Safety and Health who shall be appointed by the  
24 President, by and with the advice and consent of the Sen-  
25 ate. The Secretary of Labor shall, except as specifically

1 provided otherwise, carry out the Secretary's functions  
 2 under the Occupational Safety and Health Act of 1970  
 3 through the Occupational Safety and Health Administra-  
 4 tion.

## 5 **TITLE XIV—EFFECTIVE DATE**

### 6 **SEC. 1401. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as provided in subsection  
 8 (b) and section 1213, this Act and the amendments made  
 9 by this Act shall take effect upon the expiration of 90 days  
 10 after the date of the enactment of this Act.

11 (b) EXCEPTIONS.—The amendments made by section  
 12 302 shall take effect 1 year after the date of enactment  
 13 of this Act.

○

S 575 IS——2

S 575 IS——3

S 575 IS——4

S 575 IS——5

S 575 IS——6

S 575 IS——7